

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION

CHRISTOPHER MILLER and SARAH )  
MILLER, )  
 )  
Plaintiffs, )  
 )  
v. ) CIVIL ACTION NO. 12-0706-WS-B  
 )  
VISIONARY HOME BUILDERS, )  
INC., AMERICAN SAFETY )  
INDEMNITY COMPANY, and )  
CASTLEPOINT NATIONAL )  
INSURANCE COMPANY f/k/a SUA )  
INSURANCE COMPANY, )  
 )  
Defendants. )  
 )

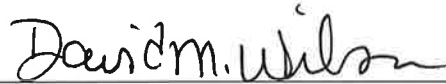
DEFENDANT CASTLEPOINT NATIONAL INSURANCE COMPANY f/k/a SUA  
INSURANCE COMPANY'S EVIDENTIARY SUBMISSION IN SUPPORT OF  
ITS MOTION TO DISMISS OR, IN THE ALTERNATIVE, MOTION FOR  
SUMMARY JUDGMENT

COMES NOW Defendant CastlePoint National Insurance Company f/k/a SUA Insurance Company (hereinafter "SUA"), and hereby files the following exhibits in support of its Motion to Dismiss or, in the alternative, Motion for Summary Judgment:

EXHIBIT 1. Certified Copy of SUA Insurance Company  
Policy Number 10AUIAG-002747-GL01;

EXHIBIT 2. Affidavit of Kent Brooks.

Respectfully submitted,



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DAVID M. WILSON  
(ASB-1797-n71d)  
Attorney for Defendant  
CastlePoint National  
Insurance Company f/k/a  
SUA Insurance Company

**OF COUNSEL:**


WILSON & BERRYHILL P.C.  
One Metroplex Drive  
Suite 250  
Birmingham, Alabama 35209  
Telephone (205) 252-4441  
Facsimile (205) 252-0320  
david@wilsonberryhill.com

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing has been served upon all Counsel of Record in this cause by electronically filing in the CM/ECF system and/or by placing a copy of the same, properly addressed and postage paid, in the U.S. Mail on this the 21<sup>st</sup> day of June, 2013.

Mark D. Ryan, Esquire  
W. Lee Webb, Esquire  
Samuel K. Wilkes, Esquire  
Attorneys for Plaintiffs  
MARK D. RYAN, P.C.  
P.O. Box 1000  
Bay Minette, Alabama 36507  
Telephone: (251) 580-0500  
Facsimile: (251) 580-0655  
mdr@mryanlaw.com

Michael S. Jackson, Esquire  
Attorney for Defendant American  
Safety Indemnity Company  
JACKSON ANDERSON & PATTY, P.C.  
250 Commerce Street, Suite 100  
Montgomery, Alabama 36104  
Telephone: (334) 834-5311  
Facsimile: (334) 834-5311  
mjackson@jaandp.com

  
\_\_\_\_\_  
Of Counsel:

# **EXHIBIT**

# **1**

**SUA INSURANCE COMPANY**  
222 S. RIVERSIDE PLAZA  
CHICAGO, ILLINOIS 60606  
1-888-782-4672

**SUA Insurance Company**

This company has caused this policy to be signed by its President and its Corporate Secretary and countersigned by a duly authorized representative where required by law.



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**Courtney C. Smith**  
**President**



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**Scott Goodreau**  
**Secretary**

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## POLICY CHANGES

<b>POLICY NUMBER</b>  10AUIAG-002747-GL01	<b>POLICY CHANGES EFFECTIVE</b>  2006-11-16	<div style="text-align: right; font-size: small;">Policy Change Number</div> <b>COMPANY</b>  SUA INSURANCE COMPANY
<b>NAMED INSURED</b> VISONARY BUILDERS LLC		<b>AUTHORIZED REPRESENTATIVE</b> AUI
<b>COVERAGE PARTS AFFECTED</b> CGL		
<div style="text-align: center;"><b>CHANGES</b></div> <b>ENDORSEMENTS ATTACHED TO THIS POLICY:</b>  SUA10490406, SUA10500205, CGDS011001, CGP0050305, CGP0060305, CG00021204, CG00670305, CG03000196, CG21460798, CG21470798, CG21550999, CG21661204, CG21671204, CG21751202, CG21861204, CG21960305, CG22240798, CG22310798, CG22340798, CG22430798, CG22790798, DCTGLManuscriptEndorsement, IL00030702, IL00171198, IL00210702, IL1201_1185, SUA10000404, SUA10010404, SUA30000304, SUA30011005, SUA30020304, SUA30031005, SUA30051005, SUA30251005, SUA30261005, SUA30271005, SUA30291005, SUA30351005, SUA30361005, SUAAL30400206		

\_\_\_\_\_  
Authorized Representative Signature

POLICY NUMBER: 10AUIAG-002747-GL01

COMMERCIAL GENERAL LIABILITY  
CG DS 01 10 01**COMMERCIAL GENERAL LIABILITY DECLARATIONS**

<b>SUA INSURANCE COMPANY</b> 222 S. Riverside Plaza Chicago IL 60606 Telephone: 312-277-1600 Fax: 312-277-1800	<b>AUI</b> PO BOX 1017 Clinton TN 37717
<b>NAMED INSURED:</b> VISONARY BUILDERS LLC <b>MAILING ADDRESS:</b> 117 EAST 14TH AVE GULF SHORES AL 36542 <b>POLICY PERIOD:</b> FROM 11/16/2006 TO 11/16/2007 AT 12:01 A.M. TIME AT YOUR MAILING ADDRESS SHOWN ABOVE	

**IN RETURN FOR THE PAYMENT OF THE PREMIUM, AND SUBJECT TO ALL THE TERMS OF THIS POLICY, WE AGREE WITH YOU TO PROVIDE THE INSURANCE AS STATED IN THIS POLICY.**

LIMITS OF INSURANCE		
EACH OCCURRENCE LIMIT	\$	1,000,000
DAMAGE TO PREMISES		
RENTED TO YOU LIMIT	\$	100,000 Any one premises
MEDICAL EXPENSE LIMIT	\$	5,000 Any one person
PERSONAL & ADVERTISING INJURY LIMIT	\$	1,000,000 Any one person or organization
GENERAL AGGREGATE LIMIT	\$	1,000,000
PRODUCTS/COMPLETED OPERATIONS AGGREGATE LIMIT	\$	1,000,000

RETROACTIVE DATE (CG 00 02 ONLY)
THIS INSURANCE DOES NOT APPLY TO "BODILY INJURY", "PROPERTY DAMAGE" OR "PERSONAL AND ADVERTISING INJURY" WHICH OCCURS BEFORE THE RETROACTIVE DATE, IF ANY, SHOWN BELOW.
RETROACTIVE DATE: _____
(ENTER DATE OR "NONE" IF NO RETROACTIVE DATE APPLIES)

DESCRIPTION OF BUSINESS
FORM OF BUSINESS:
<input type="checkbox"/> INDIVIDUAL <input type="checkbox"/> PARTNERSHIP <input type="checkbox"/> JOINT VENTURE <input type="checkbox"/> TRUST <input checked="" type="checkbox"/> LIMITED LIABILITY COMPANY <input type="checkbox"/> ORGANIZATION, INCLUDING A CORPORATION (BUT NOT INCLUDING A PARTNERSHIP, JOINT VENTURE OR LIMITED LIABILITY COMPANY)
BUSINESS DESCRIPTION: _____

Transaction Processed Date 2006-12-12T15:59:01



ALL PREMISES YOU OWN, RENT OR OCCUPY	
LOCATION NUMBER	ADDRESS OF ALL PREMISES YOU OWN, RENT OR OCCUPY
1	117 EAST 14TH AVE

CLASSIFICATION AND PREMIUM							
LOCATION NUMBER	CLASSIFICATION	CODE NO.	PREMIUM BASE	RATE		ADVANCE PREMIUM	
				Prem/Ops	Prod/Comp Ops	Prem/Ops	Prod/Comp Ops
1	Contractors	91580	\$ 18300	\$ 72.829	\$	\$ 1,333	\$ 0
1	Contractors	91583	1200000	1.875	3.806	2,250	4,567
STATE TAX OR OTHER (if applicable)						\$ 250	
TOTAL PREMIUM (SUBJECT TO AUDIT)						\$ 8,153	
PREMIUM SHOWN IS PAYABLE:				AT INCEPTION		\$ 8,403	
				AT EACH ANNIVERSARY		\$	
(IF POLICY PERIOD IS MORE THAN ONE YEAR AND PREMIUM IS PAID IN ANNUAL INSTALLMENTS)							
AUDIT PERIOD (IF APPLICABLE)		<input checked="" type="checkbox"/> ANNUALLY		<input type="checkbox"/> SEMI-ANNUALLY		<input type="checkbox"/> QUARTERLY	
						<input type="checkbox"/> MONTHLY	

ENDORSEMENTS
ENDORSEMENTS ATTACHED TO THIS POLICY:

THESE DECLARATIONS, TOGETHER WITH THE COMMON POLICY CONDITIONS AND COVERAGE FORM(S) AND ANY ENDORSEMENT(S), COMPLETE THE ABOVE NUMBERED POLICY.

Countersigned:	By:
(Date)	(Authorized Representative)

**NOTE**

OFFICERS' FACSIMILE SIGNATURES MAY BE INSERTED HERE, ON THE POLICY COVER OR ELSEWHERE AT THE COMPANY'S OPTION.

COMMERCIAL GENERAL LIABILITY  
CG P 005 03 05

## **EXCLUSION – VIOLATION OF STATUTES THAT GOVERN E-MAILS, FAX, PHONE CALLS OR OTHER METHODS OF SENDING MATERIAL OR INFORMATION ADVISORY NOTICE TO POLICYHOLDERS**

This Notice does **NOT** form a part of your insurance contract. The Notice is designed to alert you to coverage changes when the exclusion for violation of statutes that govern e-mails, fax, phone calls or other methods of sending material or information is attached to this policy. If there is any conflict between this Notice and the policy (including its endorsements), the provisions of the policy (including its endorsements) apply. Please read your policy, and the endorsements attached to your policy, carefully.

This Notice contains a brief synopsis of the following endorsement:

- **CG 00 67 03 05** – Exclusion – Violation Of Statutes That Govern E-Mails, Fax, Phone Calls Or Other Methods Of Sending Material Or Information

When the above referenced endorsement is attached to your policy, coverage is excluded for bodily injury and property damage under Coverage **A** and personal and advertising injury under Coverage **B**, arising directly or indirectly out of any action or omission that violates or is alleged to violate the Telephone Consumer Protection Act (TCPA), the CAN-SPAM Act of 2003 (including any amendment of or addition to such laws), or any other statute, ordinance or regulation that prohibits or limits the sending, transmitting, communicating or distribution of material or information.

This is a reduction in coverage in states where, absent the wording of this endorsement, courts would consider coverage to be provided for violations of the above-mentioned acts or of other similar statutes, regulations or ordinances.

COMMERCIAL GENERAL LIABILITY  
CG P 006 03 05

## **EXCLUSION – SILICA OR SILICA-RELATED DUST ADVISORY NOTICE TO POLICYHOLDERS**

This Notice does **NOT** form a part of your insurance contract. The Notice is designed to alert you to coverage changes when the exclusion for silica or silica-related dust is attached to this policy. If there is any conflict between this Notice and the policy (including its endorsements), the provisions of the policy (including its endorsements) apply. Please read your policy, and the endorsements attached to your policy, carefully.

This Notice contains a brief synopsis of the following endorsements:

- **CG 21 96 03 05** – Silica Or Silica-Related Dust Exclusion (for use with Commercial General Liability Coverage Part)
- **CG 33 70 03 05** – Silica Or Silica-Related Dust Exclusion (for use with Owners And Contractors Protective Liability Coverage Part and Products/Completed Operations Coverage Part)
- **CG 33 71 03 05** – Silica Or Silica-Related Dust Exclusion (for use with Railroad Protective Liability Coverage Part)

When one of the above referenced endorsements is attached to your policy, coverage is excluded for bodily injury under Coverage **A** arising in whole or in part, out of the actual, alleged, threatened or suspected inhalation of, or ingestion of, silica or silica-related dust. In addition, coverage is excluded for property damage under Coverage **A** and personal and advertising injury under Coverage **B** arising in whole or in part, out of actual, alleged, threatened or suspected contact with, exposure to, existence of, or presence of, silica or silica-related dust.

The attachment of any of these endorsements may result in a restriction of coverage.

**COMMERCIAL GENERAL LIABILITY**  
**CG 00 02 12 04**

## COMMERCIAL GENERAL LIABILITY COVERAGE FORM

**COVERAGES A AND B PROVIDE  
CLAIMS-MADE COVERAGE  
PLEASE READ THE ENTIRE FORM CAREFULLY**

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations, and any other person or organization qualifying as a Named Insured under this policy. The words "we", "us" and "our" refer to the Company providing this insurance.

The word "insured" means any person or organization qualifying as such under Section II – Who Is An Insured.

Other words and phrases that appear in quotation marks have special meaning. Refer to Section VI – Definitions.

### SECTION I – COVERAGES

#### COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY

##### 1. Insuring Agreement

- a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "bodily injury" or "property damage" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "bodily injury" or "property damage" to which this insurance does not apply. We may, at our discretion, investigate any "occurrence" and settle any claim or "suit" that may result. But:

- (1) The amount we will pay for damages is limited as described in Section III – Limits Of Insurance; and
- (2) Our right and duty to defend ends when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverages A or B or medical expenses under Coverage C.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments – Coverages A and B.

- b. This insurance applies to "bodily injury" and "property damage" only if:

- (1) The "bodily injury" or "property damage" is caused by an "occurrence" that takes place in the "coverage territory";
- (2) The "bodily injury" or "property damage" did not occur before the Retroactive Date, if any, shown in the Declarations or after the end of the policy period; and
- (3) A claim for damages because of the "bodily injury" or "property damage" is first made against any insured, in accordance with Paragraph c. below, during the policy period or any Extended Reporting Period we provide under Section V – Extended Reporting Periods.

- c. A claim by a person or organization seeking damages will be deemed to have been made at the earlier of the following times:

- (1) When notice of such claim is received and recorded by any insured or by us, whichever comes first; or
- (2) When we make settlement in accordance with Paragraph 1.a. above.

All claims for damages because of "bodily injury" to the same person, including damages claimed by any person or organization for care, loss of services, or death resulting at any time from the "bodily injury", will be deemed to have been made at the time the first of those claims is made against any insured.

All claims for damages because of "property damage" causing loss to the same person or organization will be deemed to have been made at the time the first of those claims is made against any insured.

##### 2. Exclusions

This insurance does not apply to:

###### a. Expected Or Intended Injury

"Bodily injury" or "property damage" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" resulting from the use of reasonable force to protect persons or property.

**b. Contractual Liability**

"Bodily injury" or "property damage" for which the insured is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages:

- (1) That the insured would have in the absence of the contract or agreement; or
- (2) Assumed in a contract or agreement that is an "insured contract", provided the "bodily injury" or "property damage" occurs subsequent to the execution of the contract or agreement. Solely for the purposes of liability assumed in an "insured contract", reasonable attorney fees and necessary litigation expenses incurred by or for a party other than an insured are deemed to be damages because of "bodily injury" or "property damage", provided:
  - (a) Liability to such party for, or for the cost of, that party's defense has also been assumed in the same "insured contract"; and
  - (b) Such attorney fees and litigation expenses are for defense of that party against a civil or alternative dispute resolution proceeding in which damages to which this insurance applies are alleged.

**c. Liquor Liability**

"Bodily injury" or "property damage" for which any insured may be held liable by reason of:

- (1) Causing or contributing to the intoxication of any person;
- (2) The furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; or
- (3) Any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages.

This exclusion applies only if you are in the business of manufacturing, distributing, selling, serving or furnishing alcoholic beverages.

**d. Workers' Compensation And Similar Laws**

Any obligation of the insured under a workers' compensation, disability benefits or unemployment compensation law or any similar law.

**e. Employer's Liability**

"Bodily injury" to:

- (1) An "employee" of the insured arising out of and in the course of:
  - (a) Employment by the insured; or

(b) Performing duties related to the conduct of the insured's business; or

- (2) The spouse, child, parent, brother or sister of that "employee" as a consequence of Paragraph (1) above.

This exclusion applies:

- (1) Whether the insured may be liable as an employer or in any other capacity; and
- (2) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

This exclusion does not apply to liability assumed by the insured under an "insured contract".

**f. Pollution**

- (1) "Bodily injury" or "property damage" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":

(a) At or from any premises, site or location which is or was at any time owned or occupied by, or rented or loaned to, any insured. However, this subparagraph does not apply to:

(i) "Bodily injury" if sustained within a building and caused by smoke, fumes, vapor or soot produced by or originating from equipment that is used to heat, cool or dehumidify the building, or equipment that is used to heat water for personal use by the building's occupants or their guests;

(ii) "Bodily injury" or "property damage" for which you may be held liable, if you are a contractor and the owner or lessee of such premises, site or location has been added to your policy as an additional insured with respect to your ongoing operations performed for that additional insured at that premises, site or location and such premises, site or location is not or never was owned or occupied by, or rented or loaned to, any insured, other than that additional insured; or

(iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire";

- (b) At or from any premises, site or location which is or was at any time used by or for any insured or others for the handling, storage, disposal, processing or treatment of waste;

(c) Which are or were at any time transported, handled, stored, treated, disposed of, or processed as waste by or for:

(i) Any insured; or

(ii) Any person or organization for whom you may be legally responsible; or

(d) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the "pollutants" are brought on or to the premises, site or location in connection with such operations by such insured, contractor or subcontractor. However, this subparagraph does not apply to:

(i) "Bodily injury" or "property damage" arising out of the escape of fuels, lubricants or other operating fluids which are needed to perform the normal electrical, hydraulic or mechanical functions necessary for the operation of "mobile equipment" or its parts, if such fuels, lubricants or other operating fluids escape from a vehicle part designed to hold, store or receive them. This exception does not apply if the "bodily injury" or "property damage" arises out of the intentional discharge, dispersal or release of the fuels, lubricants or other operating fluids, or if such fuels, lubricants or other operating fluids are brought on or to the premises, site or location with the intent that they be discharged, dispersed or released as part of the operations being performed by such insured, contractor or subcontractor;

(ii) "Bodily injury" or "property damage" sustained within a building and caused by the release of gases, fumes or vapors from materials brought into that building in connection with operations being performed by you or on your behalf by a contractor or subcontractor; or

(iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire".

(e) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the operations are to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants".

(2) Any loss, cost or expense arising out of any:

(a) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or

(b) Claim or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants".

However, this paragraph does not apply to liability for damages because of "property damage" that the insured would have in the absence of such request, demand, order or statutory or regulatory requirement, or such claim or "suit" by or on behalf of a governmental authority.

#### **g. Aircraft, Auto Or Watercraft**

"Bodily injury" or "property damage" arising out of the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft owned or operated by or rented or loaned to any insured. Use includes operation and "loading or unloading".

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage" involved the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft that is owned or operated by or rented or loaned to any insured.

This exclusion does not apply to:

(1) A watercraft while ashore on premises you own or rent;



- (2) A watercraft you do not own that is:
  - (a) Less than 26 feet long; and
  - (b) Not being used to carry persons or property for a charge;
- (3) Parking an "auto" on, or on the ways next to, premises you own or rent, provided the "auto" is not owned by or rented or loaned to you or the insured;
- (4) Liability assumed under any "insured contract" for the ownership, maintenance or use of aircraft or watercraft; or
- (5) "Bodily injury" or "property damage" arising out of:
  - (a) The operation of machinery or equipment that is attached to, or part of, a land vehicle that would qualify under the definition of "mobile equipment" if it were not subject to a compulsory or financial responsibility law or other motor vehicle insurance law in the state where it is licensed or principally garaged; or
  - (b) The operation of any of the machinery or equipment listed in Paragraph f.(2) or f.(3) of the definition of "mobile equipment".

#### **h. Mobile Equipment**

"Bodily injury" or "property damage" arising out of:

- (1) The transportation of "mobile equipment" by an "auto" owned or operated by or rented or loaned to any insured; or
- (2) The use of "mobile equipment" in, or while in practice for, or while being prepared for, any prearranged racing, speed, demolition, or stunting activity.

#### **i. War**

"Bodily injury" or "property damage", however caused, arising, directly or indirectly, out of:

- (1) War, including undeclared or civil war;
- (2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or

- (3) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

#### **j. Damage To Property**

"Property damage" to:

- (1) Property you own, rent, or occupy, including any costs or expenses incurred by you, or any other person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property;
- (2) Premises you sell, give away or abandon, if the "property damage" arises out of any part of those premises;
- (3) Property loaned to you;
- (4) Personal property in the care, custody or control of the insured;
- (5) That particular part of real property on which you or any contractors or subcontractors working directly or indirectly on your behalf are performing operations, if the "property damage" arises out of those operations; or
- (6) That particular part of any property that must be restored, repaired or replaced because "your work" was incorrectly performed on it.

Paragraphs (1), (3) and (4) of this exclusion do not apply to "property damage" (other than damage by fire) to premises, including the contents of such premises, rented to you for a period of 7 or fewer consecutive days. A separate limit of insurance applies to Damage To Premises Rented To You as described in Section III – Limits Of Insurance.

Paragraph (2) of this exclusion does not apply if the premises are "your work" and were never occupied, rented or held for rental by you.

Paragraphs (3), (4), (5) and (6) of this exclusion do not apply to liability assumed under a side-track agreement.

Paragraph (6) of this exclusion does not apply to "property damage" included in the "products-completed operations hazard".

#### **k. Damage To Your Product**

"Property damage" to "your product" arising out of it or any part of it.

#### **l. Damage To Your Work**

"Property damage" to "your work" arising out of it or any part of it and included in the "products-completed operations hazard".

This exclusion does not apply if the damaged work or the work out of which the damage arises was performed on your behalf by a sub-contractor.

**m. Damage To Impaired Property Or Property Not Physically Injured**

"Property damage" to "impaired property" or property that has not been physically injured, arising out of:

- (1) A defect, deficiency, inadequacy or dangerous condition in "your product" or "your work"; or
- (2) A delay or failure by you or anyone acting on your behalf to perform a contract or agreement in accordance with its terms.

This exclusion does not apply to the loss of use of other property arising out of sudden and accidental physical injury to "your product" or "your work" after it has been put to its intended use.

**n. Recall Of Products, Work Or Impaired Property**

Damages claimed for any loss, cost or expense incurred by you or others for the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of:

- (1) "Your product";
- (2) "Your work"; or
- (3) "Impaired property";

if such product, work, or property is withdrawn or recalled from the market or from use by any person or organization because of a known or suspected defect, deficiency, inadequacy or dangerous condition in it.

**o. Personal And Advertising Injury**

"Bodily injury" arising out of "personal and advertising injury".

**p. Electronic Data**

Damages arising out of the loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate electronic data.

As used in this exclusion, electronic data means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMS, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

Exclusions **c.** through **n.** do not apply to damage by fire to premises while rented to you or temporarily occupied by you with permission of the owner. A separate limit of insurance applies to this coverage as described in Section III – Limits Of Insurance.

**COVERAGE B PERSONAL AND ADVERTISING INJURY LIABILITY**

**1. Insuring Agreement**

**a.** We will pay those sums that the insured becomes legally obligated to pay as damages because of "personal and advertising injury" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "personal and advertising injury" to which this insurance does not apply. We may, at our discretion, investigate any offense and settle any claim or "suit" that may result. But:

- (1) The amount we will pay for damages is limited as described in Section III – Limits Of Insurance; and
- (2) Our right and duty to defend end when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverages **A** or **B** or medical expenses under Coverage **C**.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments – Coverages **A** and **B**.

**b.** This insurance applies to "personal and advertising injury" caused by an offense arising out of your business, but only if:

- (1) The offense was committed in the "coverage territory";
- (2) The offense was not committed before the Retroactive Date, if any, shown in the Declarations or after the end of the policy period; and
- (3) A claim for damages because of the "personal and advertising injury" is first made against any insured, in accordance with Paragraph **c.** below, during the policy period or any Extended Reporting Period we provide under Section **V** – Extended Reporting Periods.



c. A claim made by a person or organization seeking damages will be deemed to have been made at the earlier of the following times:

- (1) When notice of such claim is received and recorded by any insured or by us, whichever comes first; or
- (2) When we make settlement in accordance with Paragraph 1.a. above.

All claims for damages because of "personal and advertising injury" to the same person or organization as a result of an offense will be deemed to have been made at the time the first of those claims is made against any insured.

## 2. Exclusions

This insurance does not apply to:

### a. Knowing Violation Of Rights Of Another

"Personal and advertising injury" caused by or at the direction of the insured with the knowledge that the act would violate the rights of another and would inflict "personal and advertising injury".

### b. Material Published With Knowledge Of Falsity

"Personal and advertising injury" arising out of oral or written publication of material, if done by or at the direction of the insured with knowledge of its falsity.

### c. Material Published Prior To Policy Period

"Personal and advertising injury" arising out of oral or written publication of material whose first publication took place before the Retroactive Date, if any, shown in the Declarations.

### d. Criminal Acts

"Personal and advertising injury" arising out of a criminal act committed by or at the direction of the insured.

### e. Contractual Liability

"Personal and advertising injury" for which the insured has assumed liability in a contract or agreement. This exclusion does not apply to liability for damages that the insured would have in the absence of the contract or agreement.

### f. Breach Of Contract

"Personal and advertising injury" arising out of a breach of contract, except an implied contract to use another's advertising idea in your "advertisement".

### g. Quality Or Performance Of Goods – Failure To Conform To Statements

"Personal and advertising injury" arising out of the failure of goods, products or services to conform with any statement of quality or performance made in your "advertisement".

### h. Wrong Description Of Prices

"Personal and advertising injury" arising out of the wrong description of the price of goods, products or services stated in your "advertisement".

### i. Infringement Of Copyright, Patent, Trademark Or Trade Secret

"Personal and advertising injury" arising out of the infringement of copyright, patent, trademark, trade secret or other intellectual property rights.

However, this exclusion does not apply to infringement, in your "advertisement", of copyright, trade dress or slogan.

### j. Insureds In Media And Internet Type Businesses

"Personal and advertising injury" committed by an insured whose business is:

- (1) Advertising, broadcasting, publishing or telecasting;
- (2) Designing or determining content or websites for others; or
- (3) An Internet search, access, content or service provider.

However, this exclusion does not apply to Paragraphs 14.a., b. and c. of "personal and advertising injury" under the Definitions Section.

For the purposes of this exclusion, the placing of frames, borders or links, or advertising, for you or others anywhere on the Internet, is not by itself, considered the business of advertising, broadcasting, publishing or telecasting.

### k. Electronic Chatrooms Or Bulletin Boards

"Personal and advertising injury" arising out of an electronic chatroom or bulletin board the insured hosts, owns, or over which the insured exercises control.

**I. Unauthorized Use Of Another's Name Or Product**

"Personal and advertising injury" arising out of the unauthorized use of another's name or product in your e-mail address, domain name or metatag, or any other similar tactics to mislead another's potential customers.

**m. Pollution**

"Personal and advertising injury" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants" at any time.

**n. Pollution-Related**

Any loss, cost or expense arising out of any:

- (1) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or
- (2) Claim or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants".

**o. War**

"Personal and advertising injury", however caused, arising, directly or indirectly, out of:

- (1) War, including undeclared or civil war;
- (2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
- (3) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

**COVERAGE C MEDICAL PAYMENTS****1. Insuring Agreement**

- a. We will pay medical expenses as described below for "bodily injury" caused by an accident:

- (1) On premises you own or rent;
  - (2) On ways next to premises you own or rent; or
  - (3) Because of your operations;
- provided that:
- (1) The accident takes place in the "coverage territory" and during the policy period;

- (2) The expenses are incurred and reported to us within one year of the date of the accident; and

- (3) The injured person submits to examination, at our expense, by physicians of our choice as often as we reasonably require.

- b. We will make these payments regardless of fault. These payments will not exceed the applicable limit of insurance. We will pay reasonable expenses for:

- (1) First aid administered at the time of an accident;
- (2) Necessary medical, surgical, x-ray and dental services, including prosthetic devices; and
- (3) Necessary ambulance, hospital, professional nursing and funeral services.

**2. Exclusions**

We will not pay expenses for "bodily injury":

**a. Any Insured**

To any insured, except "volunteer workers".

**b. Hired Person**

To a person hired to do work for or on behalf of any insured or a tenant of any insured.

**c. Injury On Normally Occupied Premises**

To a person injured on that part of premises you own or rent that the person normally occupies.

**d. Workers Compensation And Similar Laws**

To a person, whether or not an "employee" of any insured, if benefits for the "bodily injury" are payable or must be provided under a workers' compensation or disability benefits law or a similar law.

**e. Athletics Activities**

To a person injured while practicing, instructing or participating in any physical exercises or games, sports, or athletic contests.

**f. Products-Completed Operations Hazard**

Included within the "products-completed operations hazard".

**g. Coverage A Exclusions**

Excluded under Coverage A.

**SUPPLEMENTARY PAYMENTS – COVERAGES A AND B**

1. We will pay, with respect to any claim we investigate or settle or any "suit" against an insured we defend:
  - a. All expenses we incur.
  - b. Up to \$250 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.
  - c. The cost of bonds to release attachments, but only for bond amounts within the applicable limit of insurance. We do not have to furnish these bonds.
  - d. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$250 a day because of time off from work.
  - e. All costs taxed against the insured in the "suit".
  - f. Prejudgment interest awarded against the insured on that part of the judgment we pay. If we make an offer to pay the applicable limit of insurance, we will not pay any prejudgment interest based on that period of time after the offer.
  - g. All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable limit of insurance.

These payments will not reduce the limits of insurance.
2. If we defend an insured against a "suit" and an indemnitee of the insured is also named as a party to the "suit", we will defend that indemnitee if all of the following conditions are met:
  - a. The "suit" against the indemnitee seeks damages for which the insured has assumed the liability of the indemnitee in a contract or agreement that is an "insured contract";
  - b. This insurance applies to such liability assumed by the insured;
  - c. The obligation to defend, or the cost of the defense of, that indemnitee, has also been assumed by the insured in the same "insured contract";
  - d. The allegations in the "suit" and the information we know about the "occurrence" are such that no conflict appears to exist between the interests of the insured and the interests of the indemnitee;

- e. The indemnitee and the insured ask us to conduct and control the defense of that indemnitee against such "suit" and agree that we can assign the same counsel to defend the insured and the indemnitee; and
- f. The indemnitee:
  - (1) Agrees in writing to:
    - (a) Cooperate with us in the investigation, settlement or defense of the "suit";
    - (b) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the "suit";
    - (c) Notify any other insurer whose coverage is available to the indemnitee; and
    - (d) Cooperate with us with respect to coordinating other applicable insurance available to the indemnitee; and
  - (2) Provides us with written authorization to:
    - (a) Obtain records and other information related to the "suit"; and
    - (b) Conduct and control the defense of the indemnitee in such "suit".

So long as the above conditions are met, attorneys' fees incurred by us in the defense of that indemnitee, necessary litigation expenses incurred by us and necessary litigation expenses incurred by the indemnitee at our request will be paid as Supplementary Payments. Notwithstanding the provisions of Paragraph 2.b.(2) of Section I – Coverage A – Bodily Injury And Property Damage Liability, such payments will not be deemed to be damages for "bodily injury" and "property damage" and will not reduce the limits of insurance.

Our obligation to defend an insured's indemnitee and to pay for attorneys' fees and necessary litigation expenses as Supplementary Payments ends when:

- a. We have used up the applicable limit of insurance in the payment of judgments or settlements; or
- b. The conditions set forth above, or the terms of the agreement described in Paragraph f. above, are no longer met.

**SECTION II – WHO IS AN INSURED**

1. If you are designated in the Declarations as:
  - a. An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.
  - b. A partnership or joint venture, you are an insured. Your members, your partners, and their spouses are also insureds, but only with respect to the conduct of your business.

- c. A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers.
  - d. An organization other than a partnership, joint venture or limited liability company, you are an insured. Your "executive officers" and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.
  - e. A trust, you are an insured. Your trustees are also insureds, but only with respect to their duties as trustees.
2. Each of the following is also an insured:
- a. Your "volunteer workers" only while performing duties related to the conduct of your business, or your "employees", other than either your "executive officers" (if you are an organization other than a partnership, joint venture or limited liability company) or your managers (if you are a limited liability company), but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business. However, none of these "employees" or "volunteer workers" are insureds for:
    - (1) "Bodily injury" or "personal and advertising injury":
      - (a) To you, to your partners or members (if you are a partnership or joint venture), to your members (if you are a limited liability company), to a co-"employee" while in the course of his or her employment or performing duties related to the conduct of your business, or to your other "volunteer workers" while performing duties related to the conduct of your business;
      - (b) To the spouse, child, parent, brother or sister of that co-"employee" or "volunteer worker" as a consequence of Paragraph (1)(a) above;
      - (c) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraphs (1)(a) or (b) above; or
      - (d) Arising out of his or her providing or failing to provide professional health care services.
    - (2) "Property damage" to property:
      - (a) Owned, occupied or used by,
        - (b) Rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose by you, any of your "employees", "volunteer workers", any partner or member (if you are a partnership or joint venture), or any member (if you are a limited liability company).
  - b. Any person (other than your "employee" or "volunteer worker") or any organization while acting as your real estate manager.
  - c. Any person or organization having proper temporary custody of your property if you die, but only:
    - (1) With respect to liability arising out of the maintenance or use of that property; and
    - (2) Until your legal representative has been appointed.
  - d. Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this Coverage Part.
3. Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company, and over which you maintain ownership or majority interest, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:
- a. Coverage under this provision is afforded only until the 90th day after you acquire or form the organization or the end of the policy period, whichever is earlier;
  - b. Coverage **A** does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization; and
  - c. Coverage **B** does not apply to "personal and advertising injury" arising out of an offense committed before you acquired or formed the organization.
- No person or organization is an insured with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a Named Insured in the Declarations.
- SECTION III – LIMITS OF INSURANCE**
1. The Limits of Insurance shown in the Declarations and the rules below fix the most we will pay regardless of the number of:
- a. Insureds;
  - b. Claims made or "suits" brought; or
  - c. Persons or organizations making claims or bringing "suits".



2. The General Aggregate Limit is the most we will pay for the sum of:
  - a. Medical expenses under Coverage C;
  - b. Damages under Coverage A, except damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard"; and
  - c. Damages under Coverage B.
3. The Products-Completed Operations Aggregate Limit is the most we will pay under Coverage A for damages because of "bodily injury" and "property damage" included in the "products-completed operations hazard".
4. Subject to 2. above, the Personal and Advertising Injury Limit is the most we will pay under Coverage B for the sum of all damages because of all "personal and advertising injury" sustained by any one person or organization.
5. Subject to 2. or 3. above, whichever applies, the Each Occurrence Limit is the most we will pay for the sum of:
  - a. Damages under Coverage A; and
  - b. Medical expenses under Coverage C because of all "bodily injury" and "property damage" arising out of any one "occurrence".
6. Subject to 5. above, the Damage To Premises Rented To You Limit is the most we will pay under Coverage A for damages because of "property damage" to any one premises, while rented to you, or in the case of damage by fire, while rented to you or temporarily occupied by you with permission of the owner.
7. Subject to 5. above, the Medical Expense Limit is the most we will pay under Coverage C for all medical expenses because of "bodily injury" sustained by any one person.

The Limits of Insurance of this Coverage Part apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits of Insurance.

#### **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS**

##### **1. Bankruptcy**

Bankruptcy or insolvency of the insured or of the insured's estate will not relieve us of our obligations under this Coverage Part.

##### **2. Duties In The Event Of Occurrence, Offense, Claim Or Suit**

- a. You must see to it that we are notified as soon as practicable of an "occurrence" or offense which may result in a claim. To the extent possible, notice should include:
  - (1) How, when and where the "occurrence" or offense took place;
  - (2) The names and addresses of any injured persons and witnesses; and
  - (3) The nature and location of any injury or damage arising out of the "occurrence" or offense.

Notice of an "occurrence" or offense is not notice of a claim.

- b. If a claim is received by any insured, you must:
  - (1) Immediately record the specifics of the claim and the date received; and
  - (2) Notify us as soon as practicable.

You must see to it that we receive written notice of the claim as soon as practicable.
- c. You and any other involved insured must:
  - (1) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim or a "suit";
  - (2) Authorize us to obtain records and other information;
  - (3) Cooperate with us in the investigation or settlement of the claim or defense against the "suit"; and
  - (4) Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the insured because of injury or damage to which this insurance may also apply.
- d. No insured will, except at that insured's own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than for first aid, without our consent.

##### **3. Legal Action Against Us**

No person or organization has a right under this Coverage Part:

- a. To join us as a party or otherwise bring us into a "suit" asking for damages from an insured; or
- b. To sue us on this Coverage Part unless all of its terms have been fully complied with.

A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured; but we will not be liable for damages that are not payable under the terms of this Coverage Part or that are in excess of the applicable limit of insurance. An agreed settlement means a settlement and release of liability signed by us, the insured and the claimant or the claimant's legal representative.

#### 4. Other Insurance

If other valid and collectible insurance is available to the insured for a loss we cover under Coverages **A** or **B** of this Coverage Part, our obligations are limited as follows:

##### a. Primary Insurance

This insurance is primary except when **b.** below applies. If this insurance is primary, our obligations are not affected unless any of the other insurance is also primary. Then, we will share with all that other insurance by the method described in **c.** below.

##### b. Excess Insurance

This insurance is excess over:

- (1) Any of the other insurance, whether primary, excess, contingent or on any other basis:
  - (a) That is effective prior to the beginning of the policy period shown in the Declarations of this insurance and applies to "bodily injury" or "property damage" on other than a claims-made basis, if:
    - (i) No Retroactive Date is shown in the Declarations of this insurance; or
    - (ii) The other insurance has a policy period which continues after the Retroactive Date shown in the Declarations of this insurance;
  - (b) That is Fire, Extended Coverage, Builders' Risk, Installation Risk or similar coverage for "your work";
  - (c) That is Fire insurance for premises rented to you or temporarily occupied by you with permission of the owner;
  - (d) That is insurance purchased by you to cover your liability as a tenant for "property damage" to premises rented to you or temporarily occupied by you with permission of the owner; or
  - (e) If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to Exclusion **g.** of Section **I** – Coverage **A** – Bodily Injury And Property Damage Liability.

- (2) Any other primary insurance available to you covering liability for damages arising out of the premises or operations, or the products and completed operations, for which you have been added as an additional insured by attachment of an endorsement.

When this insurance is excess, we will have no duty under Coverages **A** or **B** to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

- (1) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and
- (2) The total of all deductible and self-insured amounts under all that other insurance.

We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.

##### c. Method Of Sharing

If all of the other insurance permits contribution by equal shares, we will follow this method also. Under this approach each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

#### 5. Premium Audit

- a. We will compute all premiums for this Coverage Part in accordance with our rules and rates.

- b. Premium shown in this Coverage Part as advance premium is a deposit premium only. At the close of each audit period we will compute the earned premium for that period and send notice to the first Named Insured. The due date for audit and retrospective premiums is the date shown as the due date on the bill. If the sum of the advance and audit premiums paid for the policy period is greater than the earned premium, we will return the excess to the first Named Insured.
- c. The first Named Insured must keep records of the information we need for premium computation, and send us copies at such times as we may request.

## 6. Representations

By accepting this policy, you agree:

- a. The statements in the Declarations are accurate and complete;
- b. Those statements are based upon representations you made to us; and
- c. We have issued this policy in reliance upon your representations.

## 7. Separation Of Insureds

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this Coverage Part to the first Named Insured, this insurance applies:

- a. As if each Named Insured were the only Named Insured; and
- b. Separately to each insured against whom claim is made or "suit" is brought.

## 8. Transfer Of Rights Of Recovery Against Others To Us

If the insured has rights to recover all or part of any payment we have made under this Coverage Part, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them.

## 9. When We Do Not Renew

If we decide not to renew this Coverage Part, we will mail or deliver to the first Named Insured shown in the Declarations written notice of the nonrenewal not less than 30 days before the expiration date.

If notice is mailed, proof of mailing will be sufficient proof of notice.

We will provide the first Named Insured shown in the Declarations the following information relating to this and any preceding general liability claims-made Coverage Part we have issued to you during the previous three years:

- a. A list or other record of each "occurrence", not previously reported to any other insurer, of which we were notified in accordance with Paragraph 2.a. of the Section IV – Duties In The Event Of Occurrence, Offense, Claim Or Suit Condition. We will include the date and brief description of the "occurrence" if that information was in the notice we received.
- b. A summary by policy year, of payments made and amounts reserved, stated separately, under any applicable General Aggregate Limit and Products-Completed Operations Aggregate Limit.

Amounts reserved are based on our judgment. They are subject to change and should not be regarded as ultimate settlement values.

You must not disclose this information to any claimant or any claimant's representative without our consent.

If we cancel or elect not to renew this Coverage Part, we will provide such information no later than 30 days before the date of policy termination. In other circumstances, we will provide this information only if we receive a written request from the first Named Insured within 60 days after the end of the policy period. In this case, we will provide this information within 45 days of receipt of the request.

We compile claim and "occurrence" information for our own business purposes and exercise reasonable care in doing so. In providing this information to the first Named Insured, we make no representations or warranties to insureds, insurers, or others to whom this information is furnished by or on behalf of any insured. Cancellation or non-renewal will be effective even if we inadvertently provide inaccurate information.

## SECTION V – EXTENDED REPORTING PERIODS

- 1. We will provide one or more Extended Reporting Periods, as described below, if:
  - a. This Coverage Part is canceled or not renewed; or
  - b. We renew or replace this Coverage Part with insurance that:
    - (1) Has a Retroactive Date later than the date shown in the Declarations of this Coverage Part; or

- (2) Does not apply to "bodily injury", "property damage" or "personal and advertising injury" on a claims-made basis.
2. Extended Reporting Periods do not extend the policy period or change the scope of coverage provided. They apply only to claims for:
- "Bodily injury" or "property damage" that occurs before the end of the policy period but not before the Retroactive Date, if any, shown in the Declarations; or
  - "Personal and advertising injury" caused by an offense committed before the end of the policy period but not before the Retroactive Date, if any, shown in the Declarations.
- Once in effect, Extended Reporting Periods may not be canceled.
3. A Basic Extended Reporting Period is automatically provided without additional charge. This period starts with the end of the policy period and lasts for:
- Five years with respect to claims because of "bodily injury" and "property damage" arising out of an "occurrence" reported to us, not later than 60 days after the end of the policy period, in accordance with Paragraph 2.a. of the Section IV – Duties In The Event Of Occurrence, Offense, Claim Or Suit Condition;
  - Five years with respect to claims because of "personal and advertising injury" arising out of an offense reported to us, not later than 60 days after the end of the policy period, in accordance with Paragraph 2.a. of the Section IV – Duties In The Event Of Occurrence, Offense, Claim Or Suit Condition; and
  - Sixty days with respect to claims arising from "occurrences" or offenses not previously reported to us.

The Basic Extended Reporting Period does not apply to claims that are covered under any subsequent insurance you purchase, or that would be covered but for exhaustion of the amount of insurance applicable to such claims.

4. The Basic Extended Reporting Period does not reinstate or increase the Limits of Insurance.
5. A Supplemental Extended Reporting Period of unlimited duration is available, but only by an endorsement and for an extra charge. This supplemental period starts when the Basic Extended Reporting Period, set forth in Paragraph 3. above, ends.

You must give us a written request for the endorsement within 60 days after the end of the policy period. The Supplemental Extended Reporting Period will not go into effect unless you pay the additional premium promptly when due.

We will determine the additional premium in accordance with our rules and rates. In doing so, we may take into account the following:

- The exposures insured;
- Previous types and amounts of insurance;
- Limits of Insurance available under this Coverage Part for future payment of damages; and
- Other related factors.

The additional premium will not exceed 200% of the annual premium for this Coverage Part.

This endorsement shall set forth the terms, not inconsistent with this Section, applicable to the Supplemental Extended Reporting Period, including a provision to the effect that the insurance afforded for claims first received during such period is excess over any other valid and collectible insurance available under policies in force after the Supplemental Extended Reporting Period starts.

6. If the Supplemental Extended Reporting Period is in effect, we will provide the supplemental aggregate limits of insurance described below, but only for claims first received and recorded during the Supplemental Extended Reporting Period.

The supplemental aggregate limits of insurance will be equal to the dollar amount shown in the Declarations in effect at the end of the policy period for such of the following limits of insurance for which a dollar amount has been entered:

General Aggregate Limit

Products-Completed Operations Aggregate Limit

Paragraphs 2. and 3. of Section III – Limits Of Insurance will be amended accordingly. The Personal and Advertising Injury Limit, the Each Occurrence Limit and the Damage To Premises Rented To You Limit shown in the Declarations will then continue to apply, as set forth in Paragraphs 4., 5. and 6. of that Section.

## SECTION VI – DEFINITIONS

1. "Advertisement" means a notice that is broadcast or published to the general public or specific market segments about your goods, products or services for the purpose of attracting customers or supporters. For the purposes of this definition:
- Notices that are published include material placed on the Internet or on similar electronic means of communication; and



- b. Regarding web-sites, only that part of a web-site that is about your goods, products or services for the purposes of attracting customers or supporters is considered an advertisement.
2. "Auto" means:
- a. A land motor vehicle, trailer or semitrailer designed for travel on public roads, including any attached machinery or equipment; or
  - b. Any other land vehicle that is subject to a compulsory or financial responsibility law or other motor vehicle insurance law in the state where it is licensed or principally garaged.
- However, "auto" does not include "mobile equipment".
3. "Bodily injury" means bodily injury, sickness or disease sustained by a person, including death resulting from any of these at any time.
4. "Coverage territory" means:
- a. The United States of America (including its territories and possessions), Puerto Rico and Canada;
  - b. International waters or airspace, but only if the injury or damage occurs in the course of travel or transportation between any places included in a. above; or
  - c. All other parts of the world if the injury or damage arises out of:
    - (1) Goods or products made or sold by you in the territory described in a. above;
    - (2) The activities of a person whose home is in the territory described in a. above, but is away for a short time on your business; or
    - (3) "Personal and advertising injury" offenses that take place through the Internet or similar electronic means of communication
 provided the insured's responsibility to pay damages is determined in a "suit" on the merits, in the territory described in a. above or in a settlement we agree to.
5. "Employee" includes a "leased worker". "Employee" does not include a "temporary worker".
6. "Executive officer" means a person holding any of the officer positions created by your charter, constitution, by-laws or any other similar governing document.
7. "Hostile fire" means one which becomes uncontrollable or breaks out from where it was intended to be.

8. "Impaired property" means tangible property, other than "your product" or "your work", that cannot be used or is less useful because:
- a. It incorporates "your product" or "your work" that is known or thought to be defective, deficient, inadequate or dangerous; or
  - b. You have failed to fulfill the terms of a contract or agreement;
- if such property can be restored to use by:
- a. The repair, replacement, adjustment or removal of "your product" or "your work"; or
  - b. Your fulfilling the terms of the contract or agreement.
9. "Insured contract" means:
- a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire to premises while rented to you or temporarily occupied by you with permission of the owner is not an "insured contract";
  - b. A sidetrack agreement;
  - c. Any easement or license agreement, except in connection with construction or demolition operations on or within 50 feet of a railroad;
  - d. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
  - e. An elevator maintenance agreement;
  - f. That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another party to pay for "bodily injury" or "property damage" to a third person or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.
- Paragraph f. does not include that part of any contract or agreement:
- (1) That indemnifies a railroad for "bodily injury" or "property damage" arising out of construction or demolition operations, within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, roadbeds, tunnel, underpass or crossing;

- (2) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:
- (a) Preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
  - (b) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage; or
  - (3) Under which the insured, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render professional services, including those listed in (2) above and supervisory, inspection, architectural or engineering activities.
10. "Leased worker" means a person leased to you by a labor leasing firm under an agreement between you and the labor leasing firm, to perform duties related to the conduct of your business. "Leased worker" does not include a "temporary worker".
11. "Loading or unloading" means the handling of property:
- a. After it is moved from the place where it is accepted for movement into or onto an aircraft, watercraft or "auto";
  - b. While it is in or on an aircraft, watercraft or "auto"; or
  - c. While it is being moved from an aircraft, watercraft or "auto" to the place where it is finally delivered;
- but "loading or unloading" does not include the movement of property by means of a mechanical device, other than a hand truck, that is not attached to the aircraft, watercraft or "auto".
12. "Mobile equipment" means any of the following types of land vehicles, including any attached machinery or equipment:
- a. Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;
  - b. Vehicles maintained for use solely on or next to premises you own or rent;
  - c. Vehicles that travel on crawler treads;
  - d. Vehicles, whether self-propelled or not, maintained primarily to provide mobility to permanently mounted:
    - (1) Power cranes, shovels, loaders, diggers or drills; or
    - (2) Road construction or resurfacing equipment such as graders, scrapers or rollers;
  - e. Vehicles not described in a., b., c. or d. above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:
    - (1) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment; or
    - (2) Cherry pickers and similar devices used to raise or lower workers;
  - f. Vehicles not described in a., b., c. or d. above maintained primarily for purposes other than the transportation of persons or cargo.  
However, self-propelled vehicles with the following types of permanently attached equipment are not "mobile equipment" but will be considered "autos":
    - (1) Equipment designed primarily for:
      - (a) Snow removal;
      - (b) Road maintenance, but not construction or resurfacing; or
      - (c) Street cleaning;
    - (2) Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and
    - (3) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.
- However, "mobile equipment" does not include land vehicles that are subject to a compulsory or financial responsibility law or other motor vehicle insurance law in the state where it is licensed or principally garaged. Land vehicles subject to a compulsory or financial responsibility law or other motor vehicle insurance law are considered "autos".
13. "Occurrence" means an accident, including continuous or repeated exposure to substantially the same general harmful conditions.
14. "Personal and advertising injury" means injury, including consequential "bodily injury", arising out of one or more of the following offenses:
- a. False arrest, detention or imprisonment;
  - b. Malicious prosecution;
  - c. The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that a person occupies, committed by or on behalf of its owner, landlord or lessor;

- d. Oral or written publication, in any manner, of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services;
  - e. Oral or written publication, in any manner, of material that violates a person's right of privacy;
  - f. The use of another's advertising idea in your "advertisement"; or
  - g. Infringing upon another's copyright, trade dress or slogan in your "advertisement".
15. "Pollutants" mean any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.
16. "Products-completed operations hazard":
- a. Includes all "bodily injury" and "property damage" occurring away from premises you own or rent and arising out of "your product" or "your work" except:
    - (1) Products that are still in your physical possession; or
    - (2) Work that has not yet been completed or abandoned. However, "your work" will be deemed completed at the earliest of the following times:
      - (a) When all of the work called for in your contract has been completed.
      - (b) When all of the work to be done at the job site has been completed if your contract calls for work at more than one job site.
      - (c) When that part of the work done at a job site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.

Work that may need service, maintenance, correction, repair or replacement, but which is otherwise complete, will be treated as completed.
  - b. Does not include "bodily injury" or "property damage" arising out of:
    - (1) The transportation of property, unless the injury or damage arises out of a condition in or on a vehicle not owned or operated by you, and that condition was created by the "loading or unloading" of that vehicle by any insured;
    - (2) The existence of tools, uninstalled equipment or abandoned or unused materials; or
- (3) Products or operations for which the classification, listed in the Declarations or in a policy schedule, states that products-completed operations are subject to the General Aggregate Limit.
17. "Property damage" means:
- a. Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it; or
  - b. Loss of use of tangible property that is not physically injured. All such loss of use shall be deemed to occur at the time of the "occurrence" that caused it.
- For the purposes of this insurance, electronic data is not tangible property.
- As used in this definition, electronic data means information, facts or programs stored as or on, created or used on, or transmitted to or from, computer software, including systems and applications software, hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.
18. "Suit" means a civil proceeding in which damages because of "bodily injury", "property damage" or "personal and advertising injury" to which this insurance applies are alleged. "Suit" includes:
- a. An arbitration proceeding in which such damages are claimed and to which the insured must submit or does submit with our consent; or
  - b. Any other alternative dispute resolution proceeding in which such damages are claimed and to which the insured submits with our consent.
19. "Temporary worker" means a person who is furnished to you to substitute for a permanent "employee" on leave or to meet seasonal or short-term workload conditions.
20. "Volunteer worker" means a person who is not your "employee", and who donates his or her work and acts at the direction of and within the scope of duties determined by you, and is not paid a fee, salary or other compensation by you or anyone else for their work performed for you.
21. "Your product":
- a. Means:
    - (1) Any goods or products, other than real property, manufactured, sold, handled, distributed or disposed of by:
      - (a) You;

- (b) Others trading under your name; or
- (c) A person or organization whose business or assets you have acquired; and
- (2) Containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or products.
- b. Includes:
  - (1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your product"; and
  - (2) The providing of or failure to provide warnings or instructions.
- c. Does not include vending machines or other property rented to or located for the use of others but not sold.

**22. "Your work":**

- a. Means:
  - (1) Work or operations performed by you or on your behalf; and
  - (2) Materials, parts or equipment furnished in connection with such work or operations.
- b. Includes:
  - (1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your work" and
  - (2) The providing of or failure to provide warnings or instructions.

**COMMERCIAL GENERAL LIABILITY  
CG 00 67 03 05**

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**EXCLUSION – VIOLATION OF STATUTES THAT GOVERN  
E-MAILS, FAX, PHONE CALLS OR OTHER METHODS OF  
SENDING MATERIAL OR INFORMATION**

This endorsement modifies insurance provided under the following:

**COMMERCIAL GENERAL LIABILITY COVERAGE PART**

- A. The following exclusion is added to Paragraph 2., Exclusions of Section I – Coverage A – Bodily Injury And Property Damage Liability:**

**2. Exclusions**

This insurance does not apply to:

**DISTRIBUTION OF MATERIAL IN  
VIOLATION OF STATUTES**

"Bodily injury" or "property damage" arising directly or indirectly out of any action or omission that violates or is alleged to violate:

- a. The Telephone Consumer Protection Act (TCPA), including any amendment of or addition to such law; or
- b. The CAN-SPAM Act of 2003, including any amendment of or addition to such law; or
- c. Any statute, ordinance or regulation, other than the TCPA or CAN-SPAM Act of 2003, that prohibits or limits the sending, transmitting, communicating or distribution of material or information.

- B. The following exclusion is added to Paragraph 2., Exclusions of Section I – Coverage B – Personal And Advertising Injury Liability:**

**2. Exclusions**

This insurance does not apply to:

**DISTRIBUTION OF MATERIAL IN  
VIOLATION OF STATUTES**

"Personal and advertising injury" arising directly or indirectly out of any action or omission that violates or is alleged to violate:

- a. The Telephone Consumer Protection Act (TCPA), including any amendment of or addition to such law; or
- b. The CAN-SPAM Act of 2003, including any amendment of or addition to such law; or
- c. Any statute, ordinance or regulation, other than the TCPA or CAN-SPAM Act of 2003, that prohibits or limits the sending, transmitting, communicating or distribution of material or information.

POLICY NUMBER: 10AUIAG-002747-GL01

COMMERCIAL GENERAL LIABILITY  
CG 03 00 01 96**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.****DEDUCTIBLE LIABILITY INSURANCE**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART  
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

Coverage	SCHEDULE	Amount and Basis of Deductible	
		PER CLAIM	or PER OCCURRENCE
Bodily Injury Liability		\$	\$
OR			
Property Damage Liability		\$	1,000 \$
OR			
Bodily Injury Liability and/or Property Damage Liability Combined		\$	\$

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

**APPLICATION OF ENDORSEMENT** (Enter below any limitations on the application of this endorsement. If no limitation is entered, the deductibles apply to damages for all "bodily injury" and "property damage", however caused):

- A.** Our obligation under the Bodily Injury Liability and Property Damage Liability Coverages to pay damages on your behalf applies only to the amount of damages in excess of any deductible amounts stated in the Schedule above as applicable to such coverages.
- B.** You may select a deductible amount on either a per claim or a per "occurrence" basis. Your selected deductible applies to the coverage option and to the basis of the deductible indicated by the placement of the deductible amount in the Schedule above. The deductible amount stated in the Schedule above applies as follows:
- 1. PER CLAIM BASIS.** If the deductible amount indicated in the Schedule above is on a per claim basis, that deductible applies as follows:
- a.** Under Bodily Injury Liability Coverage, to all damages sustained by any one person because of "bodily injury";
- b.** Under Property Damage Liability Coverage, to all damages sustained by any one person because of "property damage"; or
- c.** Under Bodily Injury Liability and/or Property Damage Liability Coverage Combined, to all damages sustained by any one person because of:
- (1)** "Bodily injury";
- (2)** "Property damage"; or
- (3)** "Bodily injury" and "property damage" combined
- as the result of any one "occurrence".
- If damages are claimed for care, loss of services or death resulting at any time from "bodily injury", a separate deductible amount will be applied to each person making a claim for such damages.
- With respect to "property damage", person includes an organization.



**2. PER OCCURRENCE BASIS.** If the deductible amount indicated in the Schedule above is on a "per occurrence" basis, that deductible amount applies as follows:

- a. Under Bodily Injury Liability Coverage, to all damages because of "bodily injury";
- b. Under Property Damage Liability Coverage, to all damages because of "property damage"; or
- c. Under Bodily Injury Liability and/or Property Damage Liability Coverage Combined, to all damages because of:
  - (1) "Bodily injury";
  - (2) "Property damage"; or
  - (3) "Bodily injury" and "property damage" combined

as the result of any one "occurrence", regardless of the number of persons or organizations who sustain damages because of that "occurrence".

**C.** The terms of this insurance, including those with respect to:

- 1. Our right and duty to defend the insured against any "suits" seeking those damages; and
- 2. Your duties in the event of an "occurrence", claim, or "suit"

apply irrespective of the application of the deductible amount.

**D.** We may pay any part or all of the deductible amount to effect settlement of any claim or "suit" and, upon notification of the action taken, you shall promptly reimburse us for such part of the deductible amount as has been paid by us.

COMMERCIAL GENERAL LIABILITY  
CG 21 46 07 98

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**ABUSE OR MOLESTATION EXCLUSION**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

The following exclusion is added to Paragraph 2., **Exclusions of Section I – Coverage A – Bodily Injury And Property Damage Liability** and Paragraph 2., **Exclusions of Section I – Coverage B – Personal And Advertising Injury Liability**:

This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of:

1. The actual or threatened abuse or molestation by anyone of any person while in the care, custody or control of any insured, or

2. The negligent:

- a. Employment;
- b. Investigation;
- c. Supervision;
- d. Reporting to the proper authorities, or failure to so report; or
- e. Retention;

of a person for whom any insured is or ever was legally responsible and whose conduct would be excluded by Paragraph 1. above.



COMMERCIAL GENERAL LIABILITY  
CG 21 47 07 98

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**EMPLOYMENT-RELATED PRACTICES EXCLUSION**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

**A. The following exclusion is added to Paragraph 2., Exclusions of Section I – Coverage A – Bodily Injury And Property Damage Liability:**

This insurance does not apply to:

"Bodily injury" to:

- (1) A person arising out of any:
  - (a) Refusal to employ that person;
  - (b) Termination of that person's employment; or
  - (c) Employment-related practices, policies, acts or omissions, such as coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation or discrimination directed at that person; or
- (2) The spouse, child, parent, brother or sister of that person as a consequence of "bodily injury" to that person at whom any of the employment-related practices described in Paragraphs (a), (b), or (c) above is directed.

This exclusion applies:

- (1) Whether the insured may be liable as an employer or in any other capacity; and
- (2) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

**B. The following exclusion is added to Paragraph 2., Exclusions of Section I – Coverage B – Personal And Advertising Injury Liability:**

This insurance does not apply to:

"Personal and advertising injury" to:

- (1) A person arising out of any:
  - (a) Refusal to employ that person;
  - (b) Termination of that person's employment; or
  - (c) Employment-related practices, policies, acts or omissions, such as coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation or discrimination directed at that person; or
- (2) The spouse, child, parent, brother or sister of that person as a consequence of "personal and advertising injury" to that person at whom any of the employment-related practices described in Paragraphs (a), (b), or (c) above is directed.

This exclusion applies:

- (1) Whether the insured may be liable as an employer or in any other capacity; and
- (2) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

COMMERCIAL GENERAL LIABILITY  
CG 21 55 09 99

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**TOTAL POLLUTION EXCLUSION  
WITH A HOSTILE FIRE EXCEPTION**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

Exclusion f. under Paragraph 2., **Exclusions of Section I – Coverage A – Bodily Injury And Property Damage Liability** is replaced by the following:

This insurance does not apply to:

**f. Pollution**

- (1) "Bodily injury" or "property damage" which would not have occurred in whole or part but for the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants" at any time.

This exclusion does not apply to "bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire" unless that "hostile fire" occurred or originated:

- (a) At any premises, site or location which is or was at any time used by or for any insured or others for the handling, storage, disposal, processing or treatment of waste; or

- (b) At any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations to test for, monitor, clean up, remove, contain, treat, detoxify, neutralize or in any way respond to, or assess the effects of, "pollutants".

- (2) Any loss, cost or expense arising out of any:

- (a) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of "pollutants"; or
- (b) Claim or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants".

**COMMERCIAL GENERAL LIABILITY**  
**CG 21 66 12 04**

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **EXCLUSION – VOLUNTEER WORKERS**

This endorsement modifies insurance provided under the following:

**COMMERCIAL GENERAL LIABILITY COVERAGE PART**

- A. Paragraph 2.a. Exclusions of Section I – Coverage C – Medical Payments** is replaced by the following:

We will not pay expenses for "bodily injury":

- a.** To any insured.

- B. Paragraph 2. Exclusions of Section I – Coverage A – Bodily Injury And Property Damage Liability** is amended as follows:

- 1.** Paragraph **g.** is replaced by the following:

This insurance does not apply to:

**g. Aircraft, Auto Or Watercraft**

"Bodily injury" or "property damage" arising out of the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft:

- (1)** Owned or operated by or rented or loaned to any insured; or
- (2)** Operated by any "volunteer worker" in the course of his or her employment by the insured or while performing duties related to the conduct of the insured's business.

Use includes operation and "loading or unloading".

This exclusion applies even if the claims against the insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage" involved the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft that is owned or operated by or rented or loaned to any insured.

This exclusion does not apply to:

- (1)** A watercraft while ashore on premises you own or rent;
- (2)** A watercraft you do not own that is:
  - (a)** Less than 26 feet long; and
  - (b)** Not being used to carry persons or property for a charge;
- (3)** Parking an "auto" on, or on the ways next to, premises you own or rent, provided the "auto" is not owned by or rented or loaned to you, the insured, any of your "volunteer workers" or any "volunteer workers" of the insured;
- (4)** Liability assumed under any "insured contract" for the ownership, maintenance or use of aircraft or watercraft; or
- (5)** "Bodily injury" or "property damage" arising out of:
  - (a)** The operation of machinery or equipment that is attached to, or part of, a land vehicle that would qualify under the definition of "mobile equipment" if it were not subject to a compulsory or financial responsibility law or other motor vehicle insurance law in the state where it is licensed or principally garaged; or
  - (b)** The operation of any of the machinery or equipment listed in Paragraph **f.(2)** or **f.(3)** of the definition of "mobile equipment".

**C. Paragraphs 2.a. and 2.b. of Section II – Who Is An Insured** are replaced by the following:

**2.** Each of the following is also an insured:

- a.** Your "employees", other than either your "executive officers" (if you are an organization other than a partnership, joint venture or limited liability company) or your managers (if you are a limited liability company), but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business. However, none of these "employees" is an insured for:

**(1)** "Bodily injury" or "personal and advertising injury":

- (a)** To you, to your partners or members (if you are a partnership or joint venture), to your members (if you are a limited liability company), or to a co-"employee" or while that co-"employee" is either in the course of his or her employment or performing duties related to the conduct of your business;

- (b)** To the spouse, child, parent, brother or sister of that co-"employee" as a consequence of Paragraph **(1)(a)** above;

- (c)** For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraphs **(1)(a)** or **(b)** above; or

- (d)** Arising out of his or her providing or failing to provide professional health care services.

**(2)** "Property damage" to property:

- (a)** Owned, occupied or used by,

- (b)** Rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose by

you, any of your "employees", any partner or member (if you are a partnership or joint venture), or any member (if you are a limited liability company).

- b.** Any person (other than your "employee"), or any organization while acting as your real estate manager.

COMMERCIAL GENERAL LIABILITY  
CG 21 67 12 04

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**FUNGI OR BACTERIA EXCLUSION**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

- A. The following exclusion is added to Paragraph 2. Exclusions of Section I – Coverage A – Bodily Injury And Property Damage Liability:**

**2. Exclusions**

This insurance does not apply to:

**Fungi Or Bacteria**

- a. "Bodily injury" or "property damage" which would not have occurred, in whole or in part, but for the actual, alleged or threatened inhalation of, ingestion of, contact with, exposure to, existence of, or presence of, any "fungi" or bacteria on or within a building or structure, including its contents, regardless of whether any other cause, event, material or product contributed concurrently or in any sequence to such injury or damage.
- b. Any loss, cost or expenses arising out of the abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, remediating or disposing of, or in any way responding to, or assessing the effects of, "fungi" or bacteria, by any insured or by any other person or entity.

This exclusion does not apply to any "fungi" or bacteria that are, are on, or are contained in, a good or product intended for bodily consumption.

- B. The following exclusion is added to Paragraph 2. Exclusions of Section I – Coverage B – Personal And Advertising Injury Liability:**

**2. Exclusions**

This insurance does not apply to:

**Fungi Or Bacteria**

- a. "Personal and advertising injury" which would not have taken place, in whole or in part, but for the actual, alleged or threatened inhalation of, ingestion of, contact with, exposure to, existence of, or presence of any "fungi" or bacteria on or within a building or structure, including its contents, regardless of whether any other cause, event, material or product contributed concurrently or in any sequence to such injury.
- b. Any loss, cost or expense arising out of the abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, remediating or disposing of, or in any way responding to, or assessing the effects of, "fungi" or bacteria, by any insured or by any other person or entity.

- C. The following definition is added to the Definitions Section:**

"Fungi" means any type or form of fungus, including mold or mildew and any mycotoxins, spores, scents or byproducts produced or released by fungi.

**COMMERCIAL GENERAL LIABILITY**  
**CG 21 75 12 02**

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **EXCLUSION OF CERTIFIED ACTS OF TERRORISM AND OTHER ACTS OF TERRORISM**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART  
LIQUOR LIABILITY COVERAGE PART  
OWNERS AND CONTRACTORS PROTECTIVE LIABILITY COVERAGE PART  
POLLUTION LIABILITY COVERAGE PART  
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART  
RAILROAD PROTECTIVE LIABILITY COVERAGE PART  
UNDERGROUND STORAGE TANK POLICY

**A. The following exclusion is added:**

This insurance does not apply to:

**TERRORISM**

"Any injury or damage" arising, directly or indirectly, out of a "certified act of terrorism" or an "other act of terrorism". However, with respect to an "other act of terrorism", this exclusion applies only when one or more of the following are attributed to such act:

1. The total of insured damage to all types of property exceeds \$25,000,000. In determining whether the \$25,000,000 threshold is exceeded, we will include all insured damage sustained by property of all persons and entities affected by the terrorism and business interruption losses sustained by owners or occupants of the damaged property. For the purpose of this provision, insured damage means damage that is covered by any insurance plus damage that would be covered by any insurance but for the application of any terrorism exclusions; or
2. Fifty or more persons sustain death or serious physical injury. For the purposes of this provision, serious physical injury means:
  - a. Physical injury that involves a substantial risk of death; or
  - b. Protracted and obvious physical disfigurement; or
  - c. Protracted loss of or impairment of the function of a bodily member or organ; or
3. The terrorism involves the use, release or escape of nuclear materials, or directly or indirectly results in nuclear reaction or radiation or radioactive contamination; or

4. The terrorism is carried out by means of the dispersal or application of pathogenic or poisonous biological or chemical materials; or
5. Pathogenic or poisonous biological or chemical materials are released, and it appears that one purpose of the terrorism was to release such materials.

With respect to this exclusion, Paragraphs 1. and 2. describe the thresholds used to measure the magnitude of an incident of an "other act of terrorism" and the circumstances in which the threshold will apply for the purpose of determining whether this exclusion will apply to that incident.

**B. The following definitions are added:**

1. For the purposes of this endorsement, "any injury or damage" means any injury or damage covered under any Coverage Part to which this endorsement is applicable, and includes but is not limited to "bodily injury", "property damage", "personal and advertising injury", "injury" or "environmental damage" as may be defined in any applicable Coverage Part.
2. "Certified act of terrorism" means an act that is certified by the Secretary of the Treasury, in concurrence with the Secretary of State and the Attorney General of the United States, to be an act of terrorism pursuant to the federal Terrorism Risk Insurance Act of 2002. The federal Terrorism Risk Insurance Act of 2002 sets forth the following criteria for a "certified act of terrorism":
  - a. The act resulted in aggregate losses in excess of \$5 million; and

- b. The act is a violent act or an act that is dangerous to human life, property or infrastructure and is committed by an individual or individuals acting on behalf of any foreign person or foreign interest, as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.
3. "Other act of terrorism" means a violent act or an act that is dangerous to human life, property or infrastructure that is committed by an individual or individuals and that appears to be part of an effort to coerce a civilian population or to influence the policy or affect the conduct of any government by coercion, and the act is not certified as a terrorist act pursuant to the federal Terrorism Risk Insurance Act of 2002. Multiple incidents of an "other act of terrorism" which occur within a seventy-two hour period and appear to be carried out in concert or to have a related purpose or common leadership shall be considered to be one incident.
- C. In the event of an incident of a "certified act of terrorism" or an "other act of terrorism" that is not subject to this exclusion, coverage does not apply to any loss or damage that is otherwise excluded under this Coverage Part.



COMMERCIAL GENERAL LIABILITY  
CG 21 86 12 04

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**EXCLUSION – EXTERIOR INSULATION  
AND FINISH SYSTEMS**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

- A.** This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of, caused by, or attributable to, whether in whole or in part, the following:
1. The design, manufacture, construction, fabrication, preparation, distribution and sale, installation, application, maintenance or repair, including remodeling, service, correction or replacement, of any "exterior insulation and finish system" or any part thereof, or any substantially similar system or any part thereof, including the application or use of conditioners, primers, accessories, flashings, coatings, caulking or sealants in connection with such a system; or
  2. "Your product" or "your work" with respect to any exterior component, fixture or feature of any structure if an "exterior insulation and finish system", or any substantially similar system, is used on the part of that structure containing that component, fixture or feature.
- B.** The following definition is added to the **Definitions** Section:
- "Exterior insulation and finish system" means a non-load bearing exterior cladding or finish system, and all component parts therein, used on any part of any structure, and consisting of:
1. A rigid or semi-rigid insulation board made of expanded polystyrene and other materials;
  2. The adhesive and/or mechanical fasteners used to attach the insulation board to the substrate;
  3. A reinforced or unreinforced base coat;
  4. A finish coat providing surface texture to which color may be added; and
  5. Any flashing, caulking or sealant used with the system for any purpose.



COMMERCIAL GENERAL LIABILITY  
CG 21 96 03 05

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**SILICA OR SILICA-RELATED DUST EXCLUSION**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

- A. The following exclusion is added to Paragraph 2., Exclusions of Section I – Coverage A – Bodily Injury And Property Damage Liability:**

**2. Exclusions**

This insurance does not apply to:

**Silica Or Silica-Related Dust**

- a. "Bodily injury" arising, in whole or in part, out of the actual, alleged, threatened or suspected inhalation of, or ingestion of, "silica" or "silica-related dust".
- b. "Property damage" arising, in whole or in part, out of the actual, alleged, threatened or suspected contact with, exposure to, existence of, or presence of, "silica" or "silica-related dust".
- c. Any loss, cost or expense arising, in whole or in part, out of the abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, remediating or disposing of, or in any way responding to or assessing the effects of, "silica" or "silica-related dust", by any insured or by any other person or entity.

- B. The following exclusion is added to Paragraph 2., Exclusions of Section I – Coverage B – Personal And Advertising Injury Liability:**

**2. Exclusions**

This insurance does not apply to:

**Silica Or Silica-Related Dust**

- a. "Personal and advertising injury" arising, in whole or in part, out of the actual, alleged, threatened or suspected inhalation of, ingestion of, contact with, exposure to, existence of, or presence of, "silica" or "silica-related dust".
- b. Any loss, cost or expense arising, in whole or in part, out of the abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, remediating or disposing of, or in any way responding to or assessing the effects of, "silica" or "silica-related dust", by any insured or by any other person or entity.

- C. The following definitions are added to the Definitions Section:**

1. "Silica" means silicon dioxide (occurring in crystalline, amorphous and impure forms), silica particles, silica dust or silica compounds.
2. "Silica-related dust" means a mixture or combination of silica and other dust or particles.

COMMERCIAL GENERAL LIABILITY  
CG 22 24 07 98

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**EXCLUSION – INSPECTION, APPRAISAL AND  
SURVEY COMPANIES**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

The following exclusion is added to Paragraph 2., **Exclusions of Section I – Coverage A – Bodily Injury And Property Damage Liability** and Paragraph 2., **Exclusions of Section I – Coverage B – Personal And Advertising Injury Liability**:

This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" for which the insured may be held liable because of the rendering of or failure to render professional services in the performance of any claim, investigation, adjustment, engineering, inspection, appraisal, survey or audit services.

COMMERCIAL GENERAL LIABILITY  
CG 22 31 07 98

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**EXCLUSION – RIOT, CIVIL COMMOTION OR  
MOB ACTION – GOVERNMENTAL SUBDIVISIONS**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

The following exclusion is added to Paragraph 2., **Exclusions of Section I – Coverage A – Bodily Injury And Property Damage Liability** and Paragraph 2., **Exclusions of Section I – Coverage B – Personal And Advertising Injury Liability**:

This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of:

1. Riot, civil commotion or mob action; or
2. Any act or omission in connection with the prevention or suppression of a riot, civil commotion or mob action.

COMMERCIAL GENERAL LIABILITY  
CG 22 34 07 98

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**EXCLUSION – CONSTRUCTION MANAGEMENT  
ERRORS AND OMISSIONS**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

The following exclusion is added to Paragraph 2., **Exclusions of Section I – Coverage A – Bodily Injury And Property Damage Liability** and Paragraph 2., **Exclusions of Section I – Coverage B – Personal And Advertising Injury Liability**:

This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of:

1. The preparing, approving, or failure to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications by any architect, engineer or surveyor performing services on a project on which you serve as construction manager; or

2. Inspection, supervision, quality control, architectural or engineering activities done by or for you on a project on which you serve as construction manager.

This exclusion does not apply to "bodily injury" or "property damage" due to construction or demolition work done by you, your "employees" or your subcontractors.

COMMERCIAL GENERAL LIABILITY  
CG 22 43 07 98

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**EXCLUSION – ENGINEERS, ARCHITECTS OR  
SURVEYORS PROFESSIONAL LIABILITY**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

The following exclusion is added to Paragraph 2., **Exclusions of Section I – Coverage A – Bodily Injury And Property Damage Liability** and Paragraph 2., **Exclusions of Section I – Coverage B – Personal And Advertising Injury Liability**:

This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of or failure to render any professional services by you or any engineer, architect or surveyor who is either employed by you or performing work on your behalf in such capacity.

Professional services include:

1. The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; and
2. Supervisory, inspection, architectural or engineering activities.

COMMERCIAL GENERAL LIABILITY  
CG 22 79 07 98

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**EXCLUSION – CONTRACTORS – PROFESSIONAL  
LIABILITY**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

The following exclusion is added to Paragraph 2., **Exclusions of Section I – Coverage A – Bodily Injury And Property Damage Liability** and Paragraph 2., **Exclusions of Section I – Coverage B – Personal And Advertising Injury Liability**:

1. This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of or failure to render any professional services by you or on your behalf, but only with respect to either or both of the following operations:
  - a. Providing engineering, architectural or surveying services to others in your capacity as an engineer, architect or surveyor; and
  - b. Providing, or hiring independent professionals to provide, engineering, architectural or surveying services in connection with construction work you perform.
2. Subject to Paragraph 3. below, professional services include:
  - a. Preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders, or drawings and specifications; and
  - b. Supervisory or inspection activities performed as part of any related architectural or engineering activities.
3. Professional services do not include services within construction means, methods, techniques, sequences and procedures employed by you in connection with your operations in your capacity as a construction contractor.

**Policy Number:** 10AUIAG-002747-GL01

IL 1201

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**Premium:** \$3

**Description:** SUA CORRECTING PREMIUM

**Explanation:**  
CORRECTING PREMIUM



IL 00 03 07 02

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **CALCULATION OF PREMIUM**

This endorsement modifies insurance provided under the following:

BOILER AND MACHINERY COVERAGE PART  
CAPITAL ASSETS PROGRAM (OUTPUT POLICY) COVERAGE PART  
COMMERCIAL AUTOMOBILE COVERAGE PART  
COMMERCIAL GENERAL LIABILITY COVERAGE PART  
COMMERCIAL INLAND MARINE COVERAGE PART  
COMMERCIAL PROPERTY COVERAGE PART  
CRIME AND FIDELITY COVERAGE PART  
EMPLOYMENT-RELATED PRACTICES LIABILITY COVERAGE PART  
FARM COVERAGE PART  
LIQUOR LIABILITY COVERAGE PART  
OWNERS AND CONTRACTORS PROTECTIVE LIABILITY COVERAGE PART  
POLLUTION LIABILITY COVERAGE PART  
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART  
PROFESSIONAL LIABILITY COVERAGE PART  
RAILROAD PROTECTIVE LIABILITY COVERAGE PART

The following is added:

The premium shown in the Declarations was computed based on rates in effect at the time the policy was issued. On each renewal, continuation, or anniversary of the effective date of this policy, we will compute the premium in accordance with our rates and rules then in effect.

## COMMON POLICY CONDITIONS

All Coverage Parts included in this policy are subject to the following conditions.

### A. Cancellation

1. The first Named Insured shown in the Declarations may cancel this policy by mailing or delivering to us advance written notice of cancellation.
2. We may cancel this policy by mailing or delivering to the first Named Insured written notice of cancellation at least:
  - a. 10 days before the effective date of cancellation if we cancel for nonpayment of premium; or
  - b. 30 days before the effective date of cancellation if we cancel for any other reason.
3. We will mail or deliver our notice to the first Named Insured's last mailing address known to us.
4. Notice of cancellation will state the effective date of cancellation. The policy period will end on that date.
5. If this policy is cancelled, we will send the first Named Insured any premium refund due. If we cancel, the refund will be pro rata. If the first Named Insured cancels, the refund may be less than pro rata. The cancellation will be effective even if we have not made or offered a refund.
6. If notice is mailed, proof of mailing will be sufficient proof of notice.

### B. Changes

This policy contains all the agreements between you and us concerning the insurance afforded. The first Named Insured shown in the Declarations is authorized to make changes in the terms of this policy with our consent. This policy's terms can be amended or waived only by endorsement issued by us and made a part of this policy.

### C. Examination Of Your Books And Records

We may examine and audit your books and records as they relate to this policy at any time during the policy period and up to three years afterward.

### D. Inspections And Surveys

1. We have the right to:
  - a. Make inspections and surveys at any time;

- b. Give you reports on the conditions we find; and

- c. Recommend changes.

2. We are not obligated to make any inspections, surveys, reports or recommendations and any such actions we do undertake relate only to insurability and the premiums to be charged. We do not make safety inspections. We do not undertake to perform the duty of any person or organization to provide for the health or safety of workers or the public. And we do not warrant that conditions:

- a. Are safe or healthful; or

- b. Comply with laws, regulations, codes or standards.

3. Paragraphs 1. and 2. of this condition apply not only to us, but also to any rating, advisory, rate service or similar organization which makes insurance inspections, surveys, reports or recommendations.

4. Paragraph 2. of this condition does not apply to any inspections, surveys, reports or recommendations we may make relative to certification, under state or municipal statutes, ordinances or regulations, of boilers, pressure vessels or elevators.

### E. Premiums

The first Named Insured shown in the Declarations:

1. Is responsible for the payment of all premiums; and
2. Will be the payee for any return premiums we pay.

### F. Transfer Of Your Rights And Duties Under This Policy

Your rights and duties under this policy may not be transferred without our written consent except in the case of death of an individual named insured.

If you die, your rights and duties will be transferred to your legal representative but only while acting within the scope of duties as your legal representative. Until your legal representative is appointed, anyone having proper temporary custody of your property will have your rights and duties but only with respect to that property.

IL 00 21 07 02

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **NUCLEAR ENERGY LIABILITY EXCLUSION ENDORSEMENT**

(Broad Form)

This endorsement modifies insurance provided under the following:

COMMERCIAL AUTOMOBILE COVERAGE PART  
COMMERCIAL GENERAL LIABILITY COVERAGE PART  
FARM COVERAGE PART  
LIQUOR LIABILITY COVERAGE PART  
OWNERS AND CONTRACTORS PROTECTIVE LIABILITY COVERAGE PART  
POLLUTION LIABILITY COVERAGE PART  
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART  
PROFESSIONAL LIABILITY COVERAGE PART  
RAILROAD PROTECTIVE LIABILITY COVERAGE PART  
UNDERGROUND STORAGE TANK POLICY

**1. The insurance does not apply:**

**A. Under any Liability Coverage, to "bodily injury" or "property damage":**

- (1)** With respect to which an "insured" under the policy is also an insured under a nuclear energy liability policy issued by Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters, Nuclear Insurance Association of Canada or any of their successors, or would be an insured under any such policy but for its termination upon exhaustion of its limit of liability; or
- (2)** Resulting from the "hazardous properties" of "nuclear material" and with respect to which **(a)** any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof, or **(b)** the "insured" is, or had this policy not been issued would be, entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into by the United States of America, or any agency thereof, with any person or organization.

**B. Under any Medical Payments coverage, to expenses incurred with respect to "bodily injury" resulting from the "hazardous properties" of "nuclear material" and arising out of the operation of a "nuclear facility" by any person or organization.**

**C. Under any Liability Coverage, to "bodily injury" or "property damage" resulting from "hazardous properties" of "nuclear material", if:**

- (1)** The "nuclear material" **(a)** is at any "nuclear facility" owned by, or operated by or on behalf of, an "insured" or **(b)** has been discharged or dispersed therefrom;
- (2)** The "nuclear material" is contained in "spent fuel" or "waste" at any time possessed, handled, used, processed, stored, transported or disposed of, by or on behalf of an "insured"; or
- (3)** The "bodily injury" or "property damage" arises out of the furnishing by an "insured" of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any "nuclear facility", but if such facility is located within the United States of America, its territories or possessions or Canada, this exclusion **(3)** applies only to "property damage" to such "nuclear facility" and any property thereat.

2. As used in this endorsement:

"Hazardous properties" includes radioactive, toxic or explosive properties.

"Nuclear material" means "source material", "Special nuclear material" or "by-product material".

"Source material", "special nuclear material", and "by-product material" have the meanings given them in the Atomic Energy Act of 1954 or in any law amendatory thereof.

"Spent fuel" means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a "nuclear reactor".

"Waste" means any waste material **(a)** containing "by-product material" other than the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its "source material" content, and **(b)** resulting from the operation by any person or organization of any "nuclear facility" included under the first two paragraphs of the definition of "nuclear facility".

"Nuclear facility" means:

- (a)** Any "nuclear reactor";
- (b)** Any equipment or device designed or used for **(1)** separating the isotopes of uranium or plutonium, **(2)** processing or utilizing "spent fuel", or **(3)** handling, processing or packaging "waste";

**(c)** Any equipment or device used for the processing, fabricating or alloying of "special nuclear material" if at any time the total amount of such material in the custody of the "insured" at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235;

**(d)** Any structure, basin, excavation, premises or place prepared or used for the storage or disposal of "waste";

and includes the site on which any of the foregoing is located, all operations conducted on such site and all premises used for such operations.

"Nuclear reactor" means any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of fissionable material.

"Property damage" includes all forms of radioactive contamination of property.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **POLICY CHANGES**

Policy Change  
Number 0

<b>POLICY NUMBER</b> 10AUIAG-002747-GL01	<b>POLICY CHANGES EFFECTIVE</b> 2006-11-16	<b>COMPANY</b> SUA INSURANCE COMPANY
<b>NAMED INSURED</b> VISIONARY BUILDERS LLC		<b>AUTHORIZED REPRESENTATIVE</b> AUI
<b>COVERAGE PARTS AFFECTED</b> CGL		

### **CHANGES**

Description: SUA CORRECTING PREMIUM

Premium: 3

Explanation: CORRECTING PREMIUM

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Authorized Representative Signature

Transaction Processed Date 2006-12-12T15:59:01

## **DISCLOSURE NOTICE OFFER OF TERRORISM INSURANCE COVERAGE**

The Terrorism Risk Insurance Act of 2002 establishes a program within the Department of the Treasury under which the federal government shares, with the insurance industry, the risk of loss from future terrorist attacks. The Act applies when the Secretary of the Treasury certifies that an event meets the definition of an act of terrorism. The Act provides that to be certified, an act of terrorism must cause losses of at least five million dollars and must have been committed by an individual or individuals acting on behalf of any foreign person or foreign interest to coerce the government or population of the United States.

### **DISCLOSURE OF FEDERAL PARTICIPATION IN PAYMENT OF TERRORISM LOSSES**

The United States Government, Department of the Treasury will pay a share of terrorism losses insured under the federal program. The federal share equals 90% of that portion of the amount of such insured losses that exceed the applicable insurer retention.

**LIMITATION ON PAYMENT OF TERRORISM LOSSES** (applies to policies which cover terrorism losses insured under the federal program, including those which only cover fire losses)

The provisions of the Terrorism Risk Insurance Act of 2002 can limit our maximum liability for payment of losses from certified acts of terrorism. That determination will be based on a formula set forth in the law involving the national total of federally insured terrorism losses in an annual period and individual insurer participation in payment of such losses. If one or more certified acts of terrorism in an annual period causes the maximum liability for payment of losses from certified acts of terrorism to be reached, and we have satisfied our required level of payments under the law, then we will not pay for the portion of such losses above that maximum. However, that is subject to possible change at that time, as Congress may, under the Act, determine that payments above the cap will be made.

### **OFFER OF COVERAGE FOR CERTIFIED ACTS OF TERRORISM**

In accordance with the Terrorism Risk Insurance Act of 2002, we are required to offer you coverage for losses resulting from an act of terrorism **that is certified under the federal program**.

If you choose to accept this offer of coverage, your policy premium will include the additional premium for terrorism as stated in the Disclosure of Premium section of this notice. Prior to the binding of coverage for your policy or policies, please inform your agent or broker of your intent to purchase coverage for certified acts of terrorism.

**NOTE TO INSURED REGARDING PROPERTY (BUILDING AND/OR CONTENTS ONLY) AND INLAND MARINE:** *There are states where state law requires that coverage for the peril of fire be provided (see below for applicable states\*). In these states, a terrorism exclusion makes an exception for (and thereby provides coverage for) fire losses resulting from an act of terrorism. Therefore, if you reject the offer of terrorism coverage, that rejection does not apply to fire losses resulting from an act of terrorism — coverage for such fire losses will be provided in your policy. The additional premium just for such fire and/or inland marine coverage is stated in the Disclosure of Premium. If you reject the offer described above for terrorism coverage, this premium is still due.*

*\* Applies to Property and Inland Marine:*

*CA, LA, ME, MI, MN, MO, NH, OR, PA, RI, WI*

*\* Applies to Property only:*

*AZ, CT, GA, HI, ID, IL, IA, MA, NE, NC, ND, NJ, NY, OK, VA, WA, WV*

**NOTE TO INSURED REGARDING AUTOMOBILE ONLY:** *For Commercial Auto in Alaska, Connecticut, Hawaii, Kansas, Kentucky, New Jersey, New York and Oregon, financial responsibility and/or motor vehicle liability insurance statutes require that liability coverage for limits up to the minimum state compulsory limits of insurance is provided for any losses resulting from a certified act of terrorism. If you reject the offer described above for terrorism coverage, you will still be provided this minimum compulsory coverage at no premium charge for risks located in these states.*

Policy Number: 10AUIAG-002747-GL01

Named Insured: VISONARY BUILDERS LLC

Insurer: SUA Insurance Company

Please indicate your choices by checking the appropriate boxes below. Sign the completed statement and return the form to us. Keep a copy for your records. Your policy will then reflect your choices.

**DISCLOSURE OF PREMIUM**

This DISCLOSURE OF PREMIUM applies only to coverage(s) below for which a premium is shown. You must accept or reject each coverage where a premium is indicated. **If NA appears where a premium should be indicated, you do not have this type of coverage on your policy, and cannot accept or reject coverage.**

<input type="checkbox"/> Accept	<input type="checkbox"/> Reject	<b>PROPERTY</b> (Property includes: Commercial Boiler & Machinery, Commercial Crime, Commercial Inland Marine and Commercial Property if provided on policy)  If you accept this offer, the additional premium for terrorism coverage is	\$ NA
		If you reject this offer and, if any of the premises are located in a state where state law requires that coverage for the peril of fire be provided at that location, the premium for terrorism-peril of fire coverage for your building and/or contents as provided is	\$ NA
<input type="checkbox"/> Accept	<input checked="" type="checkbox"/> Reject	<b>GENERAL LIABILITY</b> If you accept this offer, the additional premium for terrorism coverage is	\$ 0
<input type="checkbox"/> Accept	<input type="checkbox"/> Reject	<b>COMMERCIAL AUTOMOBILE</b> If you accept this offer, the additional premium for terrorism coverage is	\$ NA
<input type="checkbox"/> Accept	<input type="checkbox"/> Reject	<b>COMMERCIAL LIABILITY UMBRELLA</b> If you accept this offer, the additional premium for terrorism coverage is	\$ NA
<input type="checkbox"/> Accept	<input type="checkbox"/> Reject	<b>EXCESS LIABILITY</b> If you accept this offer, the additional premium for terrorism coverage is	\$ NA
<input type="checkbox"/> Accept	<input type="checkbox"/> Reject	<b>EXCESS PROPERTY</b> If you accept this offer, the additional premium for terrorism coverage is	\$ NA
<b>TOTAL TERRORISM PREMIUM*</b>			\$ 0

*\*Premium for this coverage may be subject to audit.*

**REJECTION STATEMENT**

If the above box titled **Reject** is checked I hereby reject the offer(s) of terrorism coverage as indicated. If rejected, I understand that an **exclusion** of certain terrorism losses will be made part of this policy.

Signature and Title of Named Insured:

Date:



**POLICYHOLDER DISCLOSURE NOTICE  
TERRORISM RISK INSURANCE ACT OF 2002  
REJECTION OF OUR OFFER OF COVERAGE**

A check beside the box titled **Reject** for one or more lines of business listed below indicates that you did not accept our offer of coverage for certified acts of terrorism, as required under the Terrorism Risk Insurance Act of 2002. As a result, this policy does not provide such coverage and contains one or more exclusions that apply to certified acts of terrorism.

If you were not made aware of our offer of coverage for certified acts of terrorism, or believe that this notice was included in this policy in error, please notify your agent or broker immediately.

- |  |                                      |
|--|--------------------------------------|
| <input type="checkbox"/> Reject            | <b>BOILER &amp; MACHINERY</b>        |
| <input type="checkbox"/> Reject            | <b>COMMERCIAL PROPERTY</b>           |
| <input type="checkbox"/> Reject            | <b>COMMERCIAL INLAND MARINE</b>      |
| <input type="checkbox"/> Reject            | <b>COMMERCIAL CRIME</b>              |
| <input checked="" type="checkbox"/> Reject | <b>GENERAL LIABILITY</b>             |
| <input type="checkbox"/> Reject            | <b>COMMERCIAL AUTOMOBILE</b>         |
| <input type="checkbox"/> Reject            | <b>COMMERCIAL LIABILITY UMBRELLA</b> |
| <input type="checkbox"/> Reject            | <b>EXCESS LIABILITY</b>              |
| <input type="checkbox"/> Reject            | <b>EXCESS PROPERTY</b>               |

**Named Insured:** VISONARY BUILDERS LLC

**Policy Number:** 10AUIAG-002747-GL01

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## **EXCLUSION - SUBSIDENCE**

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This endorsement modifies insurance provided under the following:

### **COMMERCIAL GENERAL LIABILITY COVERAGE FORM**

The following is added to **SECTION I – COVERAGES**, paragraph **2. Exclusions** of **COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY** and paragraph **2. Exclusions** of **COVERAGE B. PERSONAL AND ADVERTISING LIABILITY**:

This insurance does not apply to:

#### **Subsidence**

“bodily injury”, “property damage” or “personal and advertising injury” arising out of the “subsidence” of land and arising out of or attributable to any ongoing operation of the insured or performed on the insured’s behalf or the “products/completed operations hazard”.

This exclusion applies whether such “bodily injury”, “property damage” or “personal and advertising injury” arises solely from “subsidence” or from “subsidence” in combination with other causes, whether natural or man made.

“Subsidence” means earth movement including but not limited to:

- (1) Landslide;
- (2) Mudflow;
- (3) Earth sinking;
- (4) Earth rising;
- (5) Collapse or movement of fill;
- (6) Improper compaction;
- (7) Earth settling, slipping, falling away, caving in, eroding or tilting;
- (8) Earthquake; or
- (9) Any other movement of land or earth.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

### **EXCLUSION - LEAD**

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This endorsement modifies insurance provided under the following:

#### **COMMERCIAL GENERAL LIABILITY COVERAGE FORM**

The following is added to **SECTION I- COVERAGES**, paragraph **2. Exclusions** of **COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY** and paragraph **2. Exclusions** of **COVERAGE B, PERSONAL AND ADVERTISING LIABILITY**:

This insurance does not apply to:

Lead

“Bodily injury,” “property damage” or “personal and advertising injury” arising out of the manufacture, distribution, sale, resale, re-branding, installation, repair, removal, encapsulation, abatement, replacement or handling of, or exposure to, lead paint or any product containing lead.

This exclusion shall apply without regard to the allegations or basis of the insured's liability.

Notwithstanding the provisions of this policy regarding the obligation to defend you, where a “suit” is based in whole or in part upon “bodily injury,” “property damage” or “personal and advertising injury”, liability for which coverage is excluded by this endorsement; we shall have the right, but not the obligation, to defend said “suit.” If we exercise the right to defend said “suit” we shall have the obligation to pay for the defense, but if we do not exercise the right to defend, we shall have no obligation to pay for the defense.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## **EXCLUSION - ASBESTOS**

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This endorsement modifies insurance provided under the following:

**COMMERCIAL GENERAL LIABILITY COVERAGE FORM  
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE FORM  
LIQUOR LIABILITY COVERAGE FORM  
OWNERS AND CONTRACTORS PROTECTIVE LIABILITY COVERAGE FORM  
RAILROAD PROTECTIVE LIABILITY COVERAGE FORM  
SPECIAL PROTECTIVE AND HIGHWAY LIABILITY POLICY — NEW YORK  
POLLUTION LIABILITY COVERAGE FORM**

The following is added to **SECTION I – COVERAGES**, paragraph **2. Exclusions** of **COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY** and paragraph **2. Exclusions** of **COVERAGE B. PERSONAL AND ADVERTISING LIABILITY**:

This insurance does not apply to:

**Asbestos**

- (1) “Bodily injury,” “property damage” or “personal and advertising injury” arising out of the actual, alleged or threatened exposure at any time to “asbestos”; or
- (2) Any loss, cost or expense that may be awarded or incurred:
  - (a) by reason of a claim or “suit” for any such injury or damage; or
  - (b) in complying with a governmental direction or request to test for, monitor, clean up, remove, contain or dispose of “asbestos”.

“Asbestos” means the mineral in any form whether or not the “asbestos” was at any time:

- (1) airborne as a fiber, particle or dust;
- (2) contained in or formed a part of a product, structure or other real or personal property;
- (3) carried on clothing;
- (4) inhaled or ingested; or
- (5) transmitted by any other means.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## **EXCLUSION – CHROMATED COPPER ARSENATE**

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This endorsement modifies insurance provided under the following:

**COMMERCIAL GENERAL LIABILITY COVERAGE FORM  
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE FORM  
LIQUOR LIABILITY COVERAGE FORM  
OWNERS AND CONTRACTORS PROTECTIVE LIABILITY COVERAGE FORM  
POLLUTION LIABILITY COVERAGE FORM**

The following is added to **SECTION I - COVERAGES**, paragraph **2. Exclusions of COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY** and **paragraph 2. Exclusions of COVERAGE B. PERSONAL AND ADVERTISING LIABILITY**:

This insurance does not apply to:

### **Chromated Copper Arsenate**

- (1) “Bodily injury,” “property damage” or “personal and advertising injury” arising out of the actual, alleged or threatened exposure at any time to chromated copper arsenate (CCA), whether such CCA is in pure form or is or was combined with any other chemical product or material, and whether the existence of or exposure to CCA has caused, or contributed to the cause of damage in any sequence or combination.
- (2) Any damages, loss, cost or expense that may be awarded or incurred by reason of a claim or “suit” for any such injury or damage. This includes any injury or damage caused or alleged to have been caused by the removal, eradication, detoxification, remediation or decontamination of CCA or property containing CCA and includes any liability, cost or expense to remediate or prevent “bodily injury,” “property damage” or “personal and advertising injury” from CCA.

This exclusion shall apply without regard to the allegations or basis of the insured's liability.

Notwithstanding the provisions of this policy regarding the obligation to defend you, where a “suit” is based in whole or in part upon “bodily injury,” “property damage” or “personal and advertising injury”, liability for which coverage is excluded by this endorsement; we shall have the right, but not the obligation, to defend said “suit.” If we exercise the right to defend said “suit” we shall have no obligation to pay for the defense, but if we do not exercise the right to defend, we shall have no obligation to pay for the defense.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

### **EXCLUSION – INTENTIONAL INJURY**

---

This endorsement modifies insurance provided under the following:

**COMMERCIAL GENERAL LIABILITY COVERAGE FORM  
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE FORM  
LIQUOR LIABILITY COVERAGE FORM  
OWNERS AND CONTRACTORS PROTECTIVE LIABILITY COVERAGE FORM  
POLLUTION LIABILITY COVERAGE FORM**

Exclusion a. Expected Or Intended Injury under **SECTION I – COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY**, is deleted and replaced with the following:

**2. Exclusions**

This insurance does not apply to:

**a. Intentional Injury**

**i. Expected or Intended Injury**

“Bodily injury” or “property damage” expected or intended from the standpoint of any insured,  
or

**ii. Assault and Battery**

“Bodily injury” or “property damage” arising out of:

- (a)** Assault,
- (b)** Battery,
- (c)** Harmful or offensive contact between or among two or more persons,
- (d)** Apprehension of harmful or offensive contact between or among two or more persons,
- (e)** Threat by word or deed.

These exclusions apply regardless of:

- i.** whether or not the acts are alleged to be by or at the direction of any insured,
- ii.** whether or not the acts arose out of the alleged failure of any insured in the hiring or supervision of any person, or
- iii.** whether or not the acts arose out of the alleged failure of any insured to prevent or suppress such acts.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

### **EXCLUSION – FORMALDEHYDE**

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This endorsement modifies insurance provided under the following:

**COMMERCIAL GENERAL LIABILITY COVERAGE FORM  
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE FORM  
LIQUOR LIABILITY COVERAGE FORM  
OWNERS AND CONTRACTORS PROTECTIVE LIABILITY COVERAGE FORM  
POLLUTION LIABILITY COVERAGE FORM**

The following is added to **SECTION I - COVERAGES**, paragraph **2. Exclusions of COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY** and paragraph **2. Exclusions of COVERAGE B. PERSONAL AND ADVERTISING LIABILITY**:

This insurance does not apply to:

Formaldehyde

- (1) "Bodily injury," "property damage" or "personal and advertising injury" arising out of the actual, alleged or threatened exposure at any time to formaldehyde, whether the formaldehyde is in pure form or is or was combined with any other chemical product or material, and whether the existence of or exposure to formaldehyde has caused, or contributed to cause, damage in any sequence or combination.
- (2) Any damages, loss, cost or expense that may be awarded or incurred by reason of a claim or "suit" for any such injury or damage. This includes any injury or damage caused or alleged to have been caused by the removal, eradication, detoxification, remediation or decontamination of formaldehyde or property containing formaldehyde and includes any liability, cost or expense to remediate or prevent "bodily injury," "property damage" or "personal and advertising injury" from formaldehyde.

This exclusion shall apply without regard to the allegations or basis of the insured's liability.

Notwithstanding the provisions of this policy regarding the obligation to defend you, where a "suit" is based in whole or in part upon "bodily injury," "property damage" or "personal and advertising injury", liability for which coverage is excluded by this endorsement; we shall have the right, but not the obligation, to defend said "suit." If we exercise the right to defend said suit we shall have no obligation to pay for the defense, but if we do not exercise the right to defend, we shall have no obligation to pay for the defense.



THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**EXCLUSION – OPEN FLAME**

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This endorsement modifies insurance provided under the following:

**COMMERCIAL GENERAL LIABILITY COVERAGE FORM**

The following is added to **SECTION I – COVERAGES**, paragraph **2. Exclusions** of **COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY** and paragraph **2. Exclusions** of **COVERAGE B. PERSONAL AND ADVERTISING LIABILITY**:

This insurance does not apply to:

**Open Flame**

“Bodily injury,” “property damage” or “personal and advertising injury” arising out of, directly or indirectly resulting from or in consequence of, or in any way involving an open flame in the removal of paint or any other coating.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**EXCLUSION – CONDOMINIUM, APARTMENT, TOWNHOUSE OR TRACT HOUSING**

---

This endorsement modifies insurance provided under the following:

**COMMERCIAL GENERAL LIABILITY COVERAGE FORM**

The following is added to **SECTION I - COVERAGES**, paragraph 2. **Exclusions of COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY** and paragraph 2. **Exclusions of COVERAGE B. PERSONAL AND ADVERTISING LIABILITY**:

This insurance does not apply to:

**Condominium, Apartment and Townhouse**

“Bodily injury”, “property damage” or “personal and advertising injury”, however caused, arising, directly or indirectly, out of, or related to an insured’s or an insured’s sub-contractor’s operations, “your work” or “your product” that are incorporated into a condominium, apartment or townhouse project. This exclusion applies only to projects that exceed 5 units.

This exclusion does not apply if “your work” or “your product” occurs after the condominium, apartment or townhouse project has been completed and certified for occupancy, unless “your work” or “your product” is to repair or replace “your work” or “your product” that occurred prior to completion and certification for occupancy.

**Tract Housing**

“Bodily injury”, “property damage” or “personal and advertising injury”, however caused, arising, directly or indirectly, out of, or related to an insured’s or an insured’s sub-contractor’s operations, “your work” or “your product” that are incorporated into a “tract housing project or development.”

This exclusion does not apply if “your work” or “your product” occurs after the “tract housing project or development” has been completed and certified for occupancy, unless “your work” or “your product” is to repair or replace “your work” or “your product” that occurred prior to completion and certification for occupancy.

As used in this endorsement, the following is added to **SECTION V - DEFINITIONS**:

“Tract housing” or “tract housing project or development” means any housing project or development that includes the construction of five (5) or more residential buildings in any or all phases of the project or development.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**EXCLUSION - INJURY TO EMPLOYEES, CONTRACTORS  
& EMPLOYEES OF CONTRACTORS**

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This endorsement modifies insurance provided under the following:

**COMMERCIAL GENERAL LIABILITY COVERAGE FORM**

Paragraph e. Employer's Liability of 2. **Exclusions** under **SECTION I - COVERAGES, COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY** is deleted and replaced with the following:

**e. "Bodily Injury" To Employees and Contractors**

- (1) "Bodily injury" to any insured, to any contractor hired or retained by or for any insured, or to any employee of such contractor, if such claim for "bodily injury" arises out of and in the course of their employment or retention of such contractor by or for any insured, for which any insured may become liable in any capacity;
- (2) Any obligation of any insured to indemnify or contribute with another because of damages arising out of the "bodily injury"; or
- (3) "Bodily injury" sustained by the spouse, child, parent, brother or sister of any employee of any insured, or of a contractor, or of an employee of a contractor of any insured as a consequence of "bodily injury" to such employee, contractor or employee of such contractor, arising out of and in the course of such employment or retention by or for any insured.

This exclusion applies to all claims and "suits" by any person or organization for damages because of such "bodily injury", including damages for care and loss of services.

All other terms and conditions remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**EXCLUSION - PENDING AND PRIOR LITIGATION**

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This endorsement modifies insurance provided under the following:

**COMMERCIAL GENERAL LIABILITY COVERAGE FORM**

The following is added to **SECTION I – COVERAGES**, paragraph **2. Exclusions** of **COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY** and paragraph **2. Exclusions** of **COVERAGE B. PERSONAL AND ADVERTISING LIABILITY**:

This insurance does not apply to:

**Pending and Prior Litigation**

“Bodily injury,” “property damage” or “personal and advertising injury” arising from all pending or prior litigation as well as all future claims arising out of said pending or prior litigation.

For the purposes of this exclusion:

- (1) Injury or damage is known to any insured when any insured is aware or reasonably should be aware that the injury or damage has occurred; and
- (2) Knowledge of “bodily injury” or “property damage” arising from an “occurrence” or “personal and advertising injury” arising from an offense constitutes knowledge of all injury or damage caused by the same “occurrence” or offense.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## **EXCLUSION - DEMOLITION**

---

This endorsement modifies insurance provided under the following:

### **COMMERCIAL GENERAL LIABILITY COVERAGE FORM**

The following is added to **SECTION I – COVERAGES**, paragraph **2. Exclusions** of **COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY**:

This insurance does not apply to:

#### **Demolition**

- (1) “Bodily injury” or “property damage” arising out of any blasting operations;
- (2) “Bodily injury” or “property damage” arising from the use of a “ball and chain” or similar apparatus;
- (3) “Bodily injury” or “property damage” arising out of the demolition of any building or structure which has an original height in excess of three stories or original height in excess of fifty (50) feet; or
- (4) “Property damage” to any abutting, adjoining, common or party wall.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**EXCLUSION - PUNITIVE OR EXEMPLARY DAMAGE**

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This endorsement modifies insurance provided under the following:

**COMMERCIAL GENERAL LIABILITY COVERAGE FORM**

The following is added to **SECTION I – COVERAGES**, paragraph 2. Exclusions of **COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY** and paragraph 2. Exclusions of **COVERAGE B. PERSONAL AND ADVERTISING LIABILITY**:

This insurance does not apply to:

**Punitive or Exemplary Damage**

Any sums that the insured becomes legally obligated to pay for punitive, exemplary or multiple damages, with the exception of wrongful death causes covered under Alabama's Wrongful Death Statute.

# **EXHIBIT**

## **2**



IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION

CHRISTOPHER MILLER and SARAH )  
MILLER, )  
 )  
Plaintiffs, )  
 )  
v. ) CIVIL ACTION NO. 12-0706-WS-B  
 )  
VISIONARY HOME BUILDERS, )  
INC., AMERICAN SAFETY )  
INDEMNITY COMPANY, and )  
CASTLEPOINT NATIONAL )  
INSURANCE COMPANY f/k/a SUA )  
INSURANCE COMPANY, )  
 )  
Defendants. )  
 )

---

AFFIDAVIT OF KENT BROOKS

---

STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ )

Before me, the undersigned Notary Public, in and for said county and said state, did personally appear Kent Brook, who being known to me, and who being placed under oath, did swear or affirm that the following facts are true and correct to the best of his information and belief.

1. My name is Kent Brooks. I am over the age of nineteen (19) years and I have personal and first hand knowledge of the matters stated herein.
2. In October and November of 2009, I was a Claims Supervisor for SUA Insurance Company (hereinafter "SUA").

3. On October 15, 2009, SUA received a copy of the letter from attorney David C. Hilyer dated October 9, 2009 attached hereto as Exhibit A.
4. The letter received on October 15, 2009 was SUA's first notice of any occurrence, offense which might result in a claim, or claim against Visionary Builders LLC under SUA Policy Number 10AUIAG-002747-GL01. I was the Claims Supervisor over the claim.
5. SUA Policy Number 10AUIAG-002747-GL01 had a policy period of November 16, 2006 to November 16, 2007.
6. During the investigation of the claim, it was discovered through oral communications with the insured that Visionary Builders, LLC's first notice of a possible loss was received, at the earliest, on November 26, 2007.
7. On November 24, 2009, SUA notified Visionary Builders LLC that the claim was denied.
8. Exhibit A is a true and correct copy of the original letter received by SUA. I am familiar with the method used by SUA for making and keeping records such as this. It was the regular course of SUA's business to make such a record at the time of the event recorded thereon. This record was made in the regular course of SUA's business. Further, Exhibit A, is a genuine and authentic copy of the original.

Further the Affiant saith not.

---

KENT BROOKS

Subscribed and sworn to before me this the \_\_\_\_ Day of \_\_\_\_\_, 2013.

---

Notary Public  
My Commission Expires: \_\_\_\_\_

# **EXHIBIT**

## **A**

*Craddock Davis & Krause LLP*

*Attorneys and Counselors*

WINSTON W. EDWARDS \*  
[wedwards@cdklawfirm.com](mailto:wedwards@cdklawfirm.com)

DAVID C. HILYER \*  
[dhilyer@cdklawfirm.com](mailto:dhilyer@cdklawfirm.com)

CHRISTOPHER W. BRODIE \*  
[cbrodie@cdklawfirm.com](mailto:cbrodie@cdklawfirm.com)

4142 Canmichael Road  
Montgomery, Alabama 36106-2802

Telephone: (334) 215-3064  
Fax: (334) 215-7843

MAIN OFFICE  
Dallas, Texas  
Telephone: (214) 750-3550

OTHER OFFICE  
Santa Fe, New Mexico  
Telephone: (505) 820-3368

\*Licensed Only in the State of Alabama

October 9, 2009

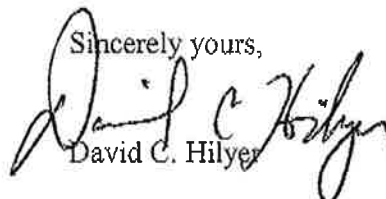
888-871-7644  
Via Facsimile and CMRRR  
Ms. Tiffany Carden  
Appalachian Underwriters  
800 Oak Ridge Turnpike  
Suite A-1000  
Oak Ridge, TN 37830

RE:	My Client:	Nationwide Custom Homes, Inc.
	Your Insured:	Visionary Builders LLC
	Plaintiff:	Chris and Sara Miller
	Case Information:	In the Circuit Court of Baldwin Co., Alabama; CV09-700 and compelled to Binding Arbitration
	Policy Nos:	10AUICP-002747-GL01
	Policy Period:	11/16/06-11/16/07

Dear Ms. Carden:

I represent Nationwide Custom Homes, Inc. in the above lawsuit brought by Mr. and Mrs. Miller in Mobile County, Alabama regarding damage to their home which your insured was building for them. My client, Natiowide Custom Homes, is an manufacturer of modular homes. Your insured, Visionary Builders, LLC, is the builder. The above action includes several causes of action against your insured, including negligence. My client is also a named defendant. The contract between your insured and Nationwide provides that your insured "agrees to indemnify and hold Contractor [Nationwide] harmless from and against any and all liability, cost and expense arising directly or indirectly from the subject matter of this Contract, including but not limited to Contractor's reasonable attorney's fees and expenses...". (See attached).

Formal demand is hereby made by Nationwide that it be defended and indemnified by your insured regarding this lawsuit pursuant to the contract. Please contact me immediately regarding these claims so I can get you the information you need to process it.

Sincerely yours,  
  
David C. Hilyer

Enclosure

Contract of Sale

NATIONWIDE HOMES 1100 Rives Road, Martinsville, VA 24116

Phone: 276-632-7100 FAX: 276-632-1181

production will surrender all available cash discount. Houses not shipped and set within 30 calendar days after coming out of production will be charged a demurrage fee of \$15.00 per calendar day (per two house sections) retroactive to the 15th day following production through the actual shipping date.

PARAGRAPH 3 LIMITED WARRANTY

Contractor hereby warrants to Builder that the modular home unit (hereinafter referred to as "Modular Unit") described in the Contract shall be in substantial conformity with the specifications set forth in this Contract and shall be free from defects in materials and workmanship under normal use and service for a period of 12 months from the date Contractor tenders delivery of the Modular Unit. Contractor's sole obligation under the foregoing warranty shall be limited to the repair or replacement, at the option of the Contractor, of any part of such Modular Unit that is demonstrated, to the reasonable satisfaction of Contractor, to be defective and which is determined to be Contractor's responsibility as outlined in the "Bulletin", including all revisions thereof. Contractor shall have no liability whatsoever for any defects in the house resulting from Builder's failure to comply with the terms of the "Bulletin" or from any structural changes to the Modular Units made by the Builder.

CONTRACTOR HEREBY DISCLAIMS, AND BUILDER AGREES THAT BUILDER SHALL HAVE NO RIGHTS WITH RESPECT TO, ANY AND ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES (A) AS TO MERCHANTABILITY; (B) AS TO FITNESS FOR A PARTICULAR PURPOSE; (C) AS TO NEW DWELLINGS PROVIDED PURSUANT TO SECTION 55-79.1 OF THE CODE OF VIRGINIA OR ANY SUCCESSOR STATUTE; OR (D) ARISING FROM A COURSE OF DEALING OR USAGE OF TRADE, EXCEPT FOR THE EXPRESS WARRANTY SET FORTH IN THIS CONTRACT. THE MODULAR UNIT OR DWELLING REFERRED TO IN THIS CONTRACT IS SOLD "AS IS".

Notwithstanding anything in this Contract to the contrary, Contractor hereby disclaims any and all liability to Builder, any customer of Builder or any other party, whether arising out of contract, tort (including negligence), strict liability or any other cause or form of action whatsoever, for consequential, special or punitive damages or lost profits resulting from any defect in materials or workmanship of any modular unit or any part thereof covered by this Contract.

The statute of limitations for any action instituted against Contractor for breach of the express warranty set forth herein or under any other provision of this Contract shall be one year from the accrual of any such cause of action. A cause of action for breach of any provision of this Contract other than for breach of the express warranty provided herein shall accrue when such breach occurs, regardless of the Builder's knowledge of such breach. A cause of action for breach of the express warranty hereunder shall accrue upon tender of delivery of the modular unit.

PARAGRAPH 4 CHANGES TO PLANS AND SPECIFICATIONS BY CONTRACTOR

In the event the Contractor must make any change in its standard specifications to comply with building codes, the cost of material, labor and service shall be borne by the Builder and the price will be amended by the Contractor by a Confirmation/Invoice.

The Contractor reserves the right to make a design change as required by CABQ, BOCA, IBCCI, National Electric Code, HUD/FHA standards, and/or other applicable codes without prior notice.

Due to rapidly changing technology and the continuing possibility of shortages, the Contractor reserves the right to substitute products and procedures of equal quality at any time. These substitutions may be made without notice, but will always be in the best interest of the Builder.

PARAGRAPH 5 MISCELLANEOUS

Contractor and Builder agree that this contract is made in Martinsville, Virginia, and that the laws of the Commonwealth of Virginia, exclusive of its principles of conflicts of law, shall govern the construction and performance of this Contract. Contractor and Builder agree that the terms of this Contract shall be for the sole benefit and not for the benefit of any third party. Contractor and Builder agree that Contractor shall have no liability whatsoever to Builder's customers or for any contractual obligation between Builder and Builder's customers, which shall be the sole responsibility of Builder. Builder agrees to indemnify and hold Contractor harmless from and against any and all liability, cost and expense arising directly or indirectly from the subject matter of this Contract, including but not limited to Contractor's reasonable attorney's fees and expenses, except to the extent caused by the Contractor's negligence or breach of Contractor's express warranty set forth in Paragraph 3.

In the event Builder does not give written notice to the Contractor within seven (7) days from date of said Confirmation/Invoice, indicating his acceptance or disagreement with the said Confirmation/Invoice, it is hereby agreed that both parties will be bound by the terms of said Confirmation/Invoice. Changes subsequent to the initial processing of this order must be in writing on a NATIONWIDE Request for Change form signed by the Builder and received at NATIONWIDE HOMES a minimum of ten (10) calendar days prior to the production date.

Builder agrees that this Contract of Sale as well as all rights and claims arising out of it, shall not be assigned without first obtaining the express written consent of Contractor, Nationwide Homes. Further, Builder acknowledges and agrees that even should Contractor consent in writing to such assignment, that Builder shall continue to be liable to Contractor under all terms and provisions of this Contract of Sale.

In the event of any dispute or claim, arising out of, or in connection with the design, construction, warranty or repair of any product or component supplied by the Contractor, the condition of the product, the conformity of the product, the merchantability of the product, whether such product is or is not "new", any representations, promises, undertakings or covenants made or allegedly made by the Contractor in connection with or arising out of any transaction or undertaking between the Contractor and any direct or subsequent purchaser, the Contractor and the purchaser of this product agree to submit any such dispute or claim to binding arbitration pursuant to the provisions of 9 USC 1, et. Seq. and according to the Commercial Rules of Arbitration of the American Arbitration Association then existing.

If any provision of this Contract is found to be unenforceable, such provision shall be considered severed from the remaining provisions of this Contract and such remaining provisions shall remain in full force and effect.

FOR HOUSES TO BE ERECTED IN MARYLAND: 1. Maryland Home Builder Registration NO.: 518. 2. This building (to the degree of construction completed in Nationwide Homes production facilities) is built in conformity with all applicable codes. 3. The purchaser has the right to receive a consumer information pamphlet. 4. This building shall meet the performance standards as detailed in the Nationwide Homes Quality Assurance Program Manual for the State of Maryland as revised and approved by the PFS Corporation.

PARAGRAPH 6 TERMINATION

Contract of Sale

NATIONWIDE HOMES 1100 Rives Road, Martinsville, VA 24115  
Phone: 276-632-7100 FAX: 276-632-1181

Builder agrees that this Contract may be terminated upon written notice by Contractor to Builder upon Builder becoming insolvent or upon a petition in bankruptcy being filed designating Builder as bankrupt or upon the Builder's being adjudged as bankrupt.

Builder further agrees that this Contract may be terminated upon written notice by Contractor to Builder that Builder has engaged in acts that are not reflective of, nor favorable to, Contractor's business.

Termination shall be immediate upon Builder's receipt of written notice by Contractor.

Upon termination of this Agreement, for the reasons designated above, after processing has been commenced by Contractor, including necessary plans and specifications for loan application, but prior to the commencement of construction, the Builder agrees to pay Contractor's engineering fees in addition to a \$300.00 charge for liquidated damages; however, in the event construction of the subject home has begun, then Builder agrees to Contractor's actual cost as liquidated damages.

Nationwide Homes, Inc.  
Contractor

By: \_\_\_\_\_  
Title: Vice President - Administration  
Date: 09/28/2007

Visionary Home Builders Inc  
Builder (Corporation)

By: [Signature]  
Title: PRESIDENT  
Date: 9-28-07